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# THEORY OF CREDIT

*δυυῖν Ἀγαθυῖν ὄντοιν Πλούτου τε καὶ τοῦ πρὸς ἅπαντας Πιστεύεσθαι μεῖζον ἐστι τὸ τῆς Πίστεως, ὕπαρχον ἡμῖν*

There being two kinds of **Wealth—Money** and **General Credit**—the greater is **Credit,** and we have it

*εἰ δὲ τοῦτο ἀγνοεῖς ὅτὶ Πίστις Ἀφορμὴ τῶν πασῶν ἐστι μεγίστη πρὸς χρηματισμόν, πᾶν ἂν ἀγνοήσειας*

If you were ignorant of this that **Credit** is the greatest **Capital** of all towards the acquisition of Wealth, you would be utterly ignorant

DEMOSTHENES

**Credit** has done more, a thousand times, to enrich nations than all the Mines of the world . . . .

Credit is to Money what Money is to goods

DANIEL WEBSTER

Man conquers Space by Commerce and Time by **Credit**

RIVAROL

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# THE THEORY OF CREDIT

BY

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# WORKS ON ECONOMICS

BY THE AUTHOR

**Elements of Political Economy.** 1858

**A Dictionary of Political Economy.** Vol. I. 1862

**The Principles of Economical Philosophy.** Being the Second Edition of the Elements. Two Vols. 1872-75

**Lectures on Credit and Banking.** Delivered at the Request of the Council of the Institute of Bankers in Scotland. 1882

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**The Theory and Practice of Banking.** Two Vols. Fifth Edition. 1892-93. Vol. I., price 12/- ; Vol. II., price 14/-

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# PREFACE

It is certain that the next great subject for Economical Inquiry and Reform in this country will be the chaotic and anomalous system of Banking which is established in the United Kingdom: and this Work is designed as a complete manual of the question

But in order to understand the subject it is necessary to decide which system of Economics we shall adopt

All persons interested in the Science are aware that there are two Schools of Economists, who hold different fundamental Concepts of the nature of the Science

The sect of French Philosophers named the "Economists," who founded Economics as a Science in the middle of the last century, expressly declared that Economics is the Science of **Exchanges** or of **Commerce**: or the **Theory of Value.** This was the universal view of it at the time. The Economists, independent mercantile writers, Condillac, Adam Smith, Ricardo, McCulloch, Whately, all held this view

But in the beginning of this century J. B. Say, misinterpreting an unfortunate expression of the Economists, treated it as the Production, Distribution and Consumption of Wealth. His friend and pupil John Stuart Mill introduced this system into England, though with considerable divergences

But those who have looked closely into the subject have seen that it is impossible to make Economics a distinct, intelligible and positive Science by adopting this latter Concept of it: and and in order to do so it is necessary to revert to the original Concept of it as the Science of Exchanges or of Commerce

For nearly half a century J. B. Say reigned supreme in France. But in 1850 Frederic Bastiat re-adopted the original Concept. In 1858, having had occasion to investigate the question, I perceived that Economics can only be made a Science by adopting this Concept: Michel Chevalier, at that time by far the most distinguished Professor of Economics in Europe, immediately declared his adhesion to this view, and maintained it to the end of his life: and adopted my *Principles of Economical Philosophy* as his text book in his lectures at the Collège de France: M. Rouher, then Minister of Agriculture and Commerce, caused an account of the system of Economics I had developed to be drawn up and distributed to all the Chambers of Commerce in France: M. Frederiksen, Professor of Economics in the University of Copenhagen, and a member of the Danish Parliament, adopted my works in his University teaching: Professor Arthur Latham Perry, of Williams College, Massachusetts, arrived independently at the same conclusion about the same time as I did, and is the author of the most popular Treatise on Economics in the United States: and numerous other writers have declared the same opinion

Walter Bagehot repeatedly says in his various writings that Economics is the **Theory of Business**

The Economists only admitted the Material products of the earth which are brought into Commerce and Exchanged to be Wealth: and steadfastly refused to admit that Labor and Credit are Wealth

But ancient writers for 1300 years unaminously held that **Exchangeability** is the sole essence and principle of Wealth : and that everything which can be bought and sold, or exchanged, is Wealth : whatever its nature and form may be

Aristotle said that All things are Wealth whose Value can be measured in Money : an anonymous writer showed that Labor is Wealth : Demosthenes showed that Personal Credit is Wealth and Capital : the Roman and Greek Jurists showed that abstract Rights and Rights of action are Wealth : and Jurists of all nations hold the same. Mill has well summed up the matter by saying that Everything is Wealth which has Purchasing Power

Rights and Rights of action are termed by Roman Jurists—*Pecunia*, *Res*, *Bona*, *Merx* : by Greek Jurists—*χρήματα*, *πράγματα*, *ἀγαθά*, *οἶκος*, *οὐσία*, *οὐσία ἀφανής* : by English Jurists—Goods, Chattels, Vendible Commodities, Merchandise, Incorporeal Property, Incorporeal Wealth

Thus Economics, or Commerce, comprehends Three great departments—the Commerce in Material Commodities : the Commerce in Labor : and the Commerce in Rights and Rights of action : by far the most colossal of any

Previous writers have bestowed much attention to the Commerce of Material Commodities and the Commerce of Labor : but as regards the Commerce in Rights and Rights of action they are lamentably defective. Smith classes Bank Notes, Bills of Exchange, &c.—which are Credit—as Circulating Capital : Mill acknowledges that Bank Notes, Bills of Exchange, and Cheques have the same effect on prices as Money : and perform all the functions of it : and observes that Bank Notes are Productive Capital : Say has many observations on the part which Bank Notes and Bills of Exchange perform as substitutes for Money, and classes them as Wealth and Capital. But of the great Juridical principles of Credit, and of the Organisation and Mechanism of the great System of Credit—these writers have not the faintest conception

It is this department of Economics—the Commerce in Rights and Rights of action—which I have made my own. This work is the exposition of the principles and mechanism of the colossal **Commerce in Rights of action**

There is nothing new or original in the Juridical principles of Credit exhibited in this volume. The great Roman Jurists elaborated the Juridical principles of Credit: and they were incorporated in the Pandects of Justinian and in the Basilica: and are set forth in every Continental treatise on Jurisprudence. Moreover, hundreds of years ago Jurists warned their students against a series of blunders into which numerous Scholastic Economists, both literary and mathematical, have fallen in modern times in treating a subject which they have never carefully studied

Moreover, as my readers will see, in an open competition among Members of the Bar in 1868, I was selected by the Law Digest Commissioners to prepare the National Digest of the Law of Bills of Exchange, Bank Notes, &c.: and I satisfied the Commissioners, who included Lord Cranworth, Lord Hatherley, Lord Westbury, Lord Cairns, Lord Selbourne and Lord Penzance, that several important doctrines then held by all the Judges were erroneous: and my doctrines were subsequently affirmed to be correct by a unanimous judgment of the Court of Exchequer Chamber; and recommended for popular circulation: and they are now enacted by Statute as Law

My readers may, therefore, have implicit confidence in the juridical principles of Credit set forth in these pages: they have been declared by the Law Digest Commissioners and the judgment of the Court of Exchequer Chamber to be strictly accurate in the minutest particulars. And I venture to hope that all persons who undertake to teach Economics in Universities and Colleges will pay attention to the judgment of the Exchequer Chamber; and co-operate in diffusing a knowledge of them among their students

The great Science of **Economics,** or **Universal Commerce,** is now, therefore, complete

When persons commence the study of a Science the first thing is to give them a clear and distinct idea of the nature and purpose of the Science. Now it is not possible to create a Science of the Production, Distribution and Consumption of Wealth. But it is perfectly possible to create a Science of Exchanges, or Commerce, as distinct and intelligible as any of the Physical Sciences

A Science is a body of phenomena relating to a single fundamental general Concept. Dynamics is the Science of the Laws which govern the phenomena of Force: Optics is the Science of the Laws which govern the phenomena of Light: Thermotics is the Science of the Laws which govern the phenomena of Heat: and so on of the other Physical Sciences

Now Economics is the Science of the Laws which govern the phenomena of **Exchangeability.** And it is evident that it can be erected into a great Inductive Science, as well as Dynamics, Optics, Thermotics, or any other, by strictly following the methods by which these subjects have been erected into great Inductive Sciences

There is no Royal road to Economics

Economics, being the Science of Exchanges, or of Commerce: or the Theory of Business: the details of Commerce, or Business, are the phenomena of Economics: and it can only be created an Inductive Science by following the same methods by which its sister Sciences have been created

It must necessarily be founded on fundamental general Concepts, grasping all classes of Economic Quantities indifferently —by a strictly accurate and minute exposition of the actual details of business—and by bringing the Laws which govern the relations of Exchangeable Quantities into strict harmony with the Laws of other Sciences of Variable Quantities

Economics, then, in accordance with the Concept of its founders, and to which the most advanced Economists are now rapidly reverting, is the Science which treats of the Laws which govern the relations of Exchangeable Quantities—or the **Theory of Value**—which opens up a magnificent field for Inductive investigation—and which, next to Civil Government, is the most important thing in human affairs

My aim and purpose, then, has been to erect the **Theory of Value** into a great Inductive Science, fit to take rank with Dynamics, Optics, Thermotics, or any other Physical Science: and in this, after the continuous and unremitting labors of 38 years, I do not affect to doubt, I have in the main succeeded

HENRY DUNNING MACLEOD

# CONTENTS

OF

# THE FIRST VOLUME

## CHAPTER I

## DEFINITION OF TERMS

1 Definition of **Economics** .. .. .. .. .. .. 1
2 Definition of **Wealth,** or of an **Economic Quantity** 2
3 Definition of Wealth by the Economists .. .. .. 3
4 Aristotle's Definition of Wealth .. .. .. .. 6
Definition of an Economic Quantity.. .. .. .. 7
5 Three Species of Wealth: or Economic Quantities .. 8
6 Ancient Dialogue to show that **Labor** is **Wealth** .. 8
7 Modern Economists include Labor as Wealth .. .. 11
8 Demosthenes shows that **Personal Credit** is **Wealth** .. 14
9 Modern Economists include Personal Credit under Wealth 16
10 On **Abstract Rights** as **Wealth** .. .. .. 18
11 General Rule of Roman Law that Rights are Wealth .. 22
12 General Rule of Greek Law that Rights are Wealth .. 23
13 General Rule of English Law that Rights are Wealth .. 25
14 Modern Economists include Rights of Action, *i.e.*, Credits or Debts: under the term Circulating Capital .. .. 27
15 There is no such thing as Absolute Wealth .. .. .. 30
16 **Economics,** or **Commerce,** consists of **Six** distinct kinds of Exchange .. .. .. .. .. .. .. 31
17 On the Meaning of **Property** .. .. .. .. 33
18 Meaning of Property in English .. .. .. .. 35
What Property comprehends .. .. .. .. .. 37
19 On **Right** of **Property** and **Right** of **Possession** .. 38
20 Application of the Positive and Negative Signs to Property 38
21 On the Theory of the Value of Land .. .. .. .. 40
22 Every **Sum** of **Money** is Equivalent to the **Sum** of the **Present Values** of an **Infinite Series** of **Future Payments** .. .. .. .. .. .. .. 42

PAGE

§ 23 A successful Trader is an Economic Quantity analogous to the Land .. .. .. .. .. .. .. 43

24 All **Annuities** are **Negative Economic Quantities** 43

25 Conspectus of the Totality of Property .. .. .. 44

26 **Wealth** in Economics is an **Exchangeable Right** .. 45

27 Meaning of **Persona** in Roman Law .. .. .. 47

28 Meaning of **Res** in Roman Law .. .. .. .. 49

29 **Jurisprudence** is the Science of **Rights** .. .. 50

30 **Economics** or Commerce is the Science of the **Exchanges** of **Rights** .. .. .. .. .. 52

31 1. Reply to the Dogma of the Economists that **Immaterial** and **Incorporeal** Quantities are **not** to be admitted to be Wealth .. .. .. .. 53

2. On **Immaterial Quantities** as **Res**, or Wealth .. 56

3. On **Incorporeal Quantities** as **Res**, or Wealth .. 59

32 Distinction between **Jura in rem** and **Jura in personam** 63

33 Corruption of Juridical Terms in Popular Usage .. .. 66

34 Definition of **Value** .. .. .. .. .. .. 71

35 1. On **Money** and **Credit** .. .. .. .. .. 72

2. On the Necessity for Money .. .. .. .. 73

3. Aristotle and many others have seen the true Nature of Money .. .. .. .. .. .. .. [illegible]

4. On **Credit** .. .. .. .. .. .. .. .. 80

36 On Substances used as Money.. .. .. .. .. .. 83

37 The Chinese invented **Paper Money** .. .. .. 84

38 On **Credits** Payable in **Services** .. .. .. .. 86

39 The **Function** of **Credit** is to bring into Commerce the **Present Values** of **Future Profits** .. .. .. 88

40 The **Fundamental Concept** of Monetary Science .. 89

41 Distinction between **Money** and **Credit** .. .. .. 90

42 Reason why **Paper** can supersede **Money**.. .. .. 91

43 The same **Quantity** may require to be regarded in different **Aspects** in different **Sciences** .. .. 92

44 There is no **Necessary Relation** between the **Quantity of Money** in any country, and the **Quantity of Commodities** and their **Price**.. .. .. .. .. 93

45 On **Barter** : **Sale** or **Circulation** : and **Exchange** .. 96

1. On Barter .. .. .. .. .. .. .. .. 96

2. On Sale, or Circulation .. .. .. .. .. 96

3. On Exchange .. .. .. .. .. .. 99

PAGE
§ 46 Meaning of **Circulating Medium**.. .. .. .. 100
47 Meaning of **Currency**.. .. .. .. .. .. 102
48 Decisions of the Courts of Law regarding the Meaning of Currency .. .. .. .. .. .. .. 105
49 Different Forms of Currency .. .. .. .. .. 109
50 The **Channel of Circulation** .. .. .. .. 110
51 On **Price** .. .. .. .. .. .. .. 112
52 On **Interest** and **Discount** .. .. .. .. 115
53 On **Production** .. .. .. .. .. .. 117
54 Three Classes of Economic Producers .. .. .. 120
55 On **Consumption** .. .. .. .. .. .. 121
56 On **Payment** and **Satisfaction** .. .. .. .. 124
57 On **Capital** .. .. .. .. .. .. .. 126
58 Any Economic Quantity may be used as Capital .. .. 127
59 Capital may Increase in Two Ways .. .. .. .. 130
60 There is no such Thing as Absolute Capital .. .. 133
61 On **Fixed** and **Floating** or **Circulating Capital** .. 134
62 On the **Three Ambiguities** in the Theory of Credit, or Debt.. .. .. .. .. .. .. .. 138
63 On the Distinction between a **Debt** and a **Bailment** .. 152
64 List of Words which in Classical Latin and Greek mean **Material Things**: but in Juridical Latin and Greek mean **Rights** and **Duties** .. .. .. .. 157
65 Summary of Definitions .. .. .. .. .. 162

## CHAPTER II

## THE THEORY OF VALUE

PRELIMINARY REMARKS .. .. .. .. .. 167

SECTION I

§ 1 Definition of **Value** .. .. .. .. .. .. 169
2 Examples of Value .. .. .. .. .. .. 172
3 On **Negative Values** .. .. .. .. .. 174
4 There may be a General Rise or Fall of Prices, but not of Values .. .. .. .. .. .. .. .. 176
5 Nothing can have Fixed Value unless Everything has Fixed Value .. .. .. .. .. .. .. .. 176

SECTION II

6 On the **Origin, Source**, or **Cause** of **Value** .. .. 178
7 Investigation of the Form, or Cause, of Value .. .. 180

PAGE
§ 8 **Materiality** is not **Necessary** to **Value** .. .. 181
9 **Permanence** or **Durability** is not **Necessary** to **Value** .. .. .. .. .. .. .. 182
10 Demonstration of the Fallacy of the Doctrine that **Labor** is the **Cause** of **Value** .. .. .. .. .. 186
11 Examination of the Doctrine that Labor is the Cause of Value .. .. .. .. .. .. .. .. 186
12 Results of the preceding Inquiry .. .. .. .. 195
13 On **Utility** as the **Cause** of **Value** .. .. .. 197
14 **Demand** is the Sole **Cause** of **Value** .. .. .. 199
15 Self-Contradiction of the writers to whom is chiefly due the doctrine that Labor is the Cause of Value .. .. 202
16 Demand confers Value on Things upon which no Labor was ever bestowed .. .. .. .. .. .. 204
17 Credits or Debts have Value because they will be paid in Money .. .. .. .. .. .. .. .. 206
18 Error of the Expression **Intrinsic Value**.. .. .. 207
19 A **Standard** of **Value** is **Impossible** .. .. .. 210
20 But there may be a **Measure** of **Value** .. .. 213
21 **Value** only exists in the **Human Mind** .. .. .. 214

### Section III

22 On the **General Law** of **Value**: or the **General Equation** of **Economics** .. .. .. .. 216
23 Fundamental Conditions of the General Equation of Economics .. .. .. .. .. .. .. 217
24 **Lord Lauderdale's Law** of **Value** .. .. .. 220
25 Remarks on the General Equation of Economics .. .. 221

## CHAPTER III

## THE THEORY OF CREDIT

Preliminary Remarks .. .. .. .. .. .. .. 224

### Section I

§ 1 Origin of the System of Credit in Europe .. .. .. 228
2 The System of Credit .. .. .. .. .. .. 229
Sketch of the History of .. .. .. .. .. 230

PAGE

### Section II

### On the **Creation** of **Obligations**

§ 3 On the Method of Contracting an Obligation among the Romans .. .. .. .. .. .. .. 233
4 On the **Stipulatio**: or Verbal Contract .. .. .. 234
5 On **Arcaria Nomina** .. .. .. .. .. 235
6 On the **Obligatio Litteris**: or Written Contract .. 236
7 The **Obligatio Consensu**: or Consensual Contract .. 237
8 On the **Creation** of **Obligations** .. .. .. .. 237
9 Division of Opinion among Jurists as to the Position of the **Debtor** in an Obligation .. .. .. .. .. .. 238
10 Advantage of adopting the Conception of Economics, as the Science of Exchanges or of Commerce .. .. .. 242
11 On the Errors made by some Mathematicians in terming **Debts Negative Quantities** .. .. .. .. 243
12 Error of Euler .. .. .. .. .. .. .. .. 246
13 Error of Peacock .. .. .. .. .. .. .. 248
14 Further Error of Peacock .. .. .. .. .. .. 250
15 Error of Thornton and Cernuschi .. .. .. .. .. 253
16 On the **Application** of the Theory of **Algebraical Signs** to **Economics** .. .. .. .. .. .. 255
17 All Sciences deal with **Quantities** and **Operations** .. 258
18 Examples of the Algebraical Signs applied to **Quantities** 260
19 The Signs + and − may also be applied to **Persons** who stand in **Opposite Relations** to each other .. .. 262
20 Example of the Positive and Negative Signs applied to Time .. .. .. .. .. .. .. .. .. 263
21 Examples of the Algebraical Signs applied to **Operations** 264
22 Jurists also use the terms Positive and Negative to denote Opposition .. .. .. .. .. .. .. 266
23 On the true Meaning of saying that **Debts** are **Negative Quantities** .. .. .. .. .. .. .. 267
24 If **Money** be termed **Positive Capital, Credit** may be termed **Negative Capital** .. .. .. .. 269

### Section III.

### On the **Transfer** of **Credits** or **Debts**

25 Subtlety of the doctrine .. .. .. .. .. 271
26 On **Property** held in **Contract**: or on *Jura in personam* 271

PAGE
§ 27 Property, or Rights, held in Contract or Obligation are of Two kinds .. .. .. .. .. .. .. 272
28 On the **Transfer** of **Credits** or **Debts** in Roman Law .. 276
29 On the **Rules** of **English Equity** and **Common Law** as to the **Transfer** of **Credits** or **Debts** .. .. 283
30 Appointment of a Royal Commission to prepare a Digest of the Law of England .. .. .. .. .. 303
31 The Case of **Crouch** *v.* **The Credit Foncier** .. .. 306
32 The Case of **Goodwin** *v.* **Robarts** .. .. .. .. 309
33 Choses-in-action made Transferable by Statute, without the Consent of the Debtor .. .. .. .. .. 312

### Section IV

### On the **Extinction** of **Obligations**

34 On the **Limits** of **Credit** .. .. .. .. .. 315
35 Modes by which **Obligations** are **extinguished** .. 318
36 On **Acceptilation**: or Release .. .. .. .. 319
37 The **Release** of a **Debt** is in all cases **Equivalent** to a **Gift** or **Payment** in **Money** .. .. .. .. 320
38 Application of the Principles of Algebra and Mercantile Law to Commerce .. .. .. .. .. .. 322
39 The Release of a Debt may be held to Extinguish an Obligation in Three different ways .. .. .. .. 322
40 When (+ £100) Cancels and Extinguishes (— £100): and when it does not .. .. .. .. .. .. 324
41 On **Payment** in **Money** .. .. .. .. .. 325
42 On **Confusio**: or Merger .. .. .. .. .. 326
43 On **Novation**: Renewal or Transfer .. .. .. 327
44 On **Compensation**: Set Off .. .. .. .. .. 329
45 On the Ratio of Money to Credit .. .. .. .. 334
46 Two Branches of the System of Credit .. .. .. 335

## CHAPTER IV

## ON THE SELF-CONTRADICTIONS OF J. B. SAY AND J. S. MILL ON CREDIT

§ 1 Credit an Exchangeable Commoditity .. .. .. 337
2 Turgot first erred on Credit .. .. .. .. .. 338

PAGE
§ 3 1. On the **Self-Contradictions** of **J. B. Say on** Credit 339
2. Say's Definition of Wealth .. .. .. .. .. 339
3. Say's Definition of Value .. .. .. .. .. 340
4. Say's Definition of Capital .. .. .. .. .. 342
He asserts that Immaterial and Incorporeal Quantities form **No** part of National Wealth .. .. .. 342
He asserts that Immaterial and Incorporeal Quantities are National Wealth .. .. .. .. .. 343
5. Say admits that Instruments of Credit are Capital .. 344
6. Say maintains that those who say that Credit is Capital affirm that the same Thing may be in two places at once .. .. .. .. .. .. .. .. 347
4 1. On the **Self-Contradictions** of **J. S. Mill** on Credit 348
2. Mill admits that Personal Credit is Wealth .. .. 349
3. Mill admits that Credit is an Independent and Exchangeable Quantity .. .. .. .. .. 350
4. Mill admits that Rights are Wealth .. .. .. 350
5. Mill admits that Credit may be used as Capital.. .. 351
6. Mill admits that Credit may be used as Productive Capital .. .. .. .. .. .. .. 352
7. Mill denies that Credit is Productive Power .. .. 352
8. Mill sneers at those who say that Credit is Capital .. 353
9. Confusion of Mill on Credit .. .. .. .. 354
Contrast between the **Idola** or **False Concepts** of Credit and the True ones .. .. .. .. .. .. 356

## CHAPTER V

## UPON INSTRUMENTS OF CREDIT

§ 1 Meaning of **Instrument** .. .. .. .. .. 358
2 Great Extension of the System of Bills of Exchange .. 360
3 1. On the Form of **Bills** and **Notes** .. .. .. 362
2. Common Law of England regarding Obligations .. 363
3. Forms of early English Bills and Notes .. .. .. 364
4 Definition of a **Bill of Exchange** .. .. .. .. 369
5 Definition of a **Draft** .. .. .. .. .. .. 370
6 Definition of a **Promissory Note** .. .. .. .. 371
7 General Rules relating to Bills and Notes .. .. .. 372
8 On Banking **Instruments** of **Credit** .. .. .. 374

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# CREDIT

## CHAPTER I

## DEFINITION OF TERMS

### *Definition of* **Economics**

1. **Economics** is the Science of **Exchanges**: or the Science which treats of the scientific principles and mechanism of **Commerce** in its widest extent and in all its forms and varieties

The word Economics is compounded of the Greek words οἶκος and νόμος

Οἶκος in Greek means Property of every sort and description. Throughout the whole range of Greek literature, from Homer to Ammonius, the word οἶκος is used as absolutely synonymous with πλοῦτος and χρῆμα, to denote Wealth of every sort. It is the technical term in Attic Law for a person's whole substance, or estate, of every form. It includes not only such property as lands, houses, money, jewelry, corn, cattle, and such things of a material form: but also such property as consists only in the form of abstract Rights, such as Rights of action, Debts, Bank Notes, Bills of Exchange, the Funds, Shares in Commercial Companies, the Goodwill of a business, Copyrights, Patents, and many other kinds of abstract Rights, which are termed in Law, Incorporeal Wealth

Νόμος in Greek means a law

Hence Economics is the Science which treats of the Exchanges of all kinds of property: which constitute Commerce

Hence it may be defined as the Science which treats of the principles and mechanism of Commerce in all its forms: it is sometimes called the *Theory of Value:* or the *Science of Wealth:* or it may be called the Science which treats of the *Laws which govern the Relations of Exchangeable Quantities.* Michel Chevalier did me the honor to say that he considered this to be the best definition of the Science which has yet been proposed

Pure Economics, then, is the Science which treats of Exchanges —of all Exchanges—and of nothing but Exchanges

And it is a fundamental Law of the Philosophy of Science that when the Concept of the Science is once determined, all questions and problems in the Science must be stated in accordance with that concept and no other. Thus Economics being the Science of Exchanges all Economical questions and problems must be stated in the form of an Exchange and in no other: such as that of addition or subtraction, or any other

### *Definition of* **Wealth,** *or of an* **Economic Quantity**

**2.** Next after clearly explaining the nature and purpose of a Science, it is necessary to define clearly all the technical terms used in it

In almost every science a considerable number of the definitions used are taken from words of common discourse which have a variety of meanings. But in a formal scientific treatise it is indispensably necessary to select one of these divers meanings as suitable for the science, and to use it uniformly in that sense throughout the work

Nor is it sufficient to enumerate a number of isolated objects under a term or definition. As pointed out by Bacon long ago, a scientific definition essentially requires some **Principle** or **Quality,** which is common to all the objects which are classed under it. It is not sufficient to allege that lands, houses, jewelry, money, cattle, corn, labor and services, Debts, Rights of action, the Funds, &c., are Wealth, without clearly defining the Quality or Principle, which is common to them all, and which constitutes them Wealth, *i.e.*, that which constitutes the essence of Wealth. This is what Whewell calls the Colligation of facts

It is also a principle in framing Definitions that when once the Quality, or Principle, is agreed upon, which is the basis of the science, all Quantities whatever which have that Quality in common must be included in the definition, however diverse they may be in nature or form; and even though they possess no other Quality in common but that single one

So Bacon earnestly inculcates as the foundation of all true science a careful collection of all kinds of instances in which the given nature, or quality, is found [1]—"The investigation of forms proceeds thus: a nature, or quality, being given, we must first of all have a muster, or presentation, before the understanding of all known instances which agree in the same nature, or quality, *though in substances the most unlike.* And such collection must be made in the matter of a history, without speculation"

This is what Plato designates as the *one in the many*, *i.e.*, the same quality appearing in quantities of the most diverse forms

What, then, is the common Property, or Principle, which constitutes things **Wealth** ?

The meaning of the word Wealth has been the subject of controversy for centuries, and in considering this important question it appears upon the whole to be the best way to explain the meaning of the term as used by the Economists who founded Economics as a science: and then to consider how far it is consistent with the scientific principles of framing definitions: and how far preceding and subsequent writers have differed from it

### *Definition of* **Wealth** *by the* **Economists**

**3.** As we have shown in the introduction, a certain sect of enlightened philosophers in France in the middle of the last century first discerned that there is a positive definite Science, termed Economics, which may be reduced to strict demonstration like the Physical Sciences. This sect of philosophers was termed the "Economists," and very commonly the "Physiocrats"

---

[1] *Nov. Org.*, Bk. ii., Aph. 11

The Economists defined **Wealth** (*Richesse*) to be the Material products of the earth, which are brought into Commerce and Exchanged : and those only

Thus Baudeau says[1]—" Useful and agreeable objects proper for our enjoyment are called **Biens** (*Goods*), because they conduce to the preservation, the propagation, and the well-being of the human race

" But sometimes these **Biens** (*Goods*) are not **Richesse** (*Wealth*), because they cannot be exchanged for other goods, or be used to procure other enjoyments. The products of nature, or the works of art, the most necessary or the most agreeable, cease to be **Wealth** (*Richesse*) when you lose the power of exchanging them, and of procuring other enjoyments by means of this Exchange. One hundred thousand feet of the most beautiful oak in the world would not be **Wealth** (*Richesse*) to you in the interior of North America, where you could not devest yourself of its possession by means of an Exchange

"The title of **Wealth** (*Richesse*), therefore, supposes two things : first useful qualities, which render these objects useful and agreeable, and fit for enjoyment—which renders them **Biens** (*Goods*)—secondly, the possibility of **exchanging** them, which enables these **Biens** (*Goods*) to procure you others, which constitutes them **Richesse—Wealth**

"The possibility of exchange supposes that there are other goods for which they can be exchanged "

So Quesnay says[2]—"We must distinguish between **Biens** (*Goods*), which have **Value in use** and not **Value in Exchange**: and **Richesse**, or **Wealth**, which has both **Value in use** and **Value in Exchange**. For instance, the savages in Louisiana enjoy many **Biens**, such as wood, game, the fruits of the earth, &c., which are not **Richesse—Wealth**—because they have no *Value in exchange*

" But since some kinds of commerce have been established between them and the French, the English, the Spaniards, &c., part of these **Biens** have acquired a Value in exchange, and have become **Richesse—Wealth**

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[1] *Introduction à la Philosophie Economique*, ch. i., 5.

[2] *Maximes Générales du Gouvernement*, *Max.* 18. note.

So Le Trosne says[1]—"Man is surrounded by wants which are renewed every day

"Whatever they are it is only from the earth that they can draw the means of satisfying them (?) The physical truth that the earth is the source of all **Biens** is so self-evident that no one can doubt it (?) . . . . But it is not sufficient to estimate products by their useful qualities: we must consider the properties they have of being exchanged against each other

"Products acquire, therefore, in a state of society a new quality, which springs from the communication of men with each other: this Quality is **Value**: which makes products become **Richesse—Wealth**: and so there is nothing superfluous, because the excess becomes the means to obtain what one wants

"**Value** consists in the **Relation** of **Exchange** which exists between such and such products

"In a word the **Quality** of **Richesse** supposes not only a useful property, but also the possibility of exchange: because Value *is nothing but the* **Relation** *of* **Exchange**

"The earth in truth only gives products, which have the physical qualities to satisfy our wants: it is **Exchange** which gives them **Value**: a Quality relative and accidental. But as it is the products themselves which are the sole matters of exchange, it follows that we may say with truth that it is the earth which produces not only all **Biens**, but all **Wealth**" (?)

Now it is certainly true that man has constant wants. But it is not true that it is the earth only which supplies the means to satisfy them. Man has not only physical wants, but has mental wants—he constantly wants services of different kinds, the services of advocates, physicians, surgeons, instructors and many others. And he pays for them just as he pays for the physical substances which minister to his physical wants. Consequently it is manifest that the earth is **not** the source of **all** that ministers to the wants of man

However the definition of Wealth which was unanimously adopted by the Economists, who were a numerous and influential sect, is perfectly clear. It was the **Material** products of the earth which are brought into **Commerce** and **Exchanged,** and those **only**

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[1] *De l'intérêt sociale, Ch.* I., § 1, 2, 3, 4.

Thus the Economists made **Exchangeability** the real essence of **Wealth** : but restricted it to Exchangeable Material products

But as a matter of fact there are other things which can be bought and sold, or exchanged, besides material products. Thus Labor and Services can be bought and sold, and their value can be measured in money

So also Abstract Rights, such as Credits or Debts, Bank Notes, Bills of Exchange, Shares in Commercial Companies, the Funds, Copyrights, Patents, and mere Rights of many other kinds, can be bought and sold, and possess the Quality of Exchangeability

Nevertheless the Economists, though admitting that there is a Commerce in Labor and Credits or Rights, steadfastly refused to acknowledge that Labor and Credit are Wealth : because they alleged that to admit that Labor and Credit are Wealth would be to maintain that Wealth can be created out of Nothing. They repeated a multitude of times that man can create Nothing : and that Nothing can come out of Nothing—*ex nihilo nihil fit*

Now this is directly contrary to the fundamental law of Natural Philosophy which Bacon so distinctly declared : because as they admitted that Exchangeability is the essence of Wealth, it necessarily follows from that fundamental law that both Labor and Credit which both possess the quality of Exchangeability must be admitted to be Wealth : and we must now inquire whether other Economists, both ancient and modern, have excluded Labor and Credit from the term Wealth, and restricted it to material products only

It is also necessary to see what reply can be given to the dogma that man can create Nothing : and that *ex nihilo nihil fit.*

### *Aristotle's Definition of* Wealth

**4.** Ancient writers for 1300 years unanimously held that **Exchangeability,** or the capability of being bought and sold, or exchanged, is the sole essence and principle of **Wealth** : and that everything whatever which can be bought and sold, or exchanged, is **Wealth** ; whatever its nature or its form may be

Thus Aristotle says, *Nicomach Ethics.* Book V,

"χρήματα δὲ λέγομεν πάντα ὅσων ἡ ἀξία νομίσματι μετρεῖται"

"*And we call* **Wealth all Things** *whose* **Value** *can be measured in* **Money**"

So Ulpian the eminent Roman jurist says :—

"Ea enim **Res** est quæ **emi** et **venire** potest"

"*For that is* **Wealth** *which can be* **bought** *and* **sold**"

All the most eminent modern Economists have come to agree in this definition

Thus Mill says[1]—"**Everything**, therefore, forms a part of **Wealth** which has a **Power** of **Purchasing**"

Here we have a perfectly good General Concept, or Definition, which contains only one General Idea : and it is therefore fitted to form the basis of a great Science. It is a Concept as wide and general as the dynamical definition of Force. That single sentence of Aristotle's is the germ out of which the whole Science of Ecomonics is to be evolved : just as the huge oak tree is developed out of the tiny acorn

A **Quantity** means **Anything** which can be **Measured** : hence an **Economic Quantity** means **Anything** whatever whose **Value** can be **Measured** in **Money** : or which can be **bought** and **sold,** or **Exchanged**

The sole criterion, then, of anything being **Wealth** is—can it be bought and sold ? Can it be exchanged separately and independently of anything else ? Can its Value be measured in Money ?

This criterion may seem very simple : but in fact to apply it properly : to discern what can, and what cannot, be bought and sold separately and independently of anything else : or to perceive all things whose Value can be measured in Money : requires a thorough knowledge of some of the most abstruse branches of Law and Commerce

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[1] *Preliminary Remarks,* p. 5

## *On the* **Three Species** *of* **Wealth:** *or of* **Economic Quantities.**

**5.** Having then adopted Exchangeability, or the capability of being bought and sold, as the sole essence and principle of Wealth: we have next to discover how many different orders or Species of Quantities there are which satisfy this definition

First there are Material Things of all sorts: such as lands, houses, money, jewelry, corn, cattle, &c., &c., which can be bought and sold, or whose value can be measured in Money. Every one now admits all these things to be wealth, and therefore we need say nothing more about them here

There are, however, two other Orders of Quantities of a totally different nature—one of which may be typified by the term **Labor,** and the other by the term **Credit**—which can be bought and sold, or whose Value can be measured in Money; and in modern times there has been a vast amount of controversy as to whether they are to be admitted as Wealth or not; and it is these Species of Quantities which we have now to consider

## *Ancient Dialogue to show that* **Labor** *is* **Wealth**

**6.** There is a very remarkable work of antiquity extant which is the earliest treatise that we are aware of, discussing an Economical Question. It is a dialogue called the *Eryxias,* or *On Wealth,* and is frequently bound up with the works of Plato. It is attributed to Æschines Socraticus, one of the most distinguished disciples of Socrates. Critics however unanimously pronounce it to be spurious, without being able to assign it to any definite author. High authorities consider it was probably written in the early Peripatetic period

This dialogue is to the following effect:—The Syracusans had sent an embassy to Athens: and the Athenians had sent a return embassy to Syracuse. As the Athenian ambassadors were entering the city on their return, they met Socrates and a party of his friends, with whom they entered into conversation. Erasistratus, one of the envoys, said that he had seen the richest man in all Sicily. Socrates immediately started a discussion on the nature of Wealth. Erasistratus said what he thought upon the subject as every one else did, and that to be wealthy meant to have much money. Socrates asked him what kind of money he meant, and he instanced the moneys of several countries. At Carthage they used as money, leather discs in which something was sewn up, but nobody knew what it was, and he who possessed the greatest quantity of this money at Carthage was the richest man there. But at Athens he would be no richer than if he possessed so many pebbles from the hill. At Lacedæmon they used iron as money, and that useless iron. He who possessed a great quantity of this iron at Lacedæmon would be rich, but anywhere else it would be worth nothing. In Ethiopia again they used carved pebbles as money, which were of no use anywhere else. Among the nomade Scythians a house was not Wealth because no one wanted a house, but greatly preferred a good sheepskin cloak. He showed that if any one could live without meat and drink they would not be Wealth to him because he did not want them

Socrates showed that Money is only Wealth because it is exchangeable : because it can purchase other things. Where it is not exchangeable, where it cannot purchase other things, it is not Wealth

He then asked why some things are Wealth, and other things are not Wealth ? Why are some things Wealth in some places and not in other places ? And at some times and not at other times ? He showed that whether a thing is Wealth or not, depends entirely upon human wants and desires : that everything is Wealth which is Wanted and Demanded. That things are only Wealth, *χρήματα*, where and when they are *χρήσιμα*, that is where and when they are Wanted and Demanded: and that nothing is Wealth when and where it is not Wanted and Demanded

Thus we see that though some persons might be puzzled at the meaning of the word Wealth, there is no possibility of mistake when we refer to the Greek, because *χρῆμα*, which is one of the most usual words in Greek for Wealth comes from *χράομαι* to want or demand. Consequently the word *χρῆμα*, Wealth, means simply anything, whatever which is wanted and demanded : no matter what its nature or its form may be

It is then human Wants and Desires which alone constitute anything Wealth. Anything whatever which people want and demand and are willing to pay for is Wealth: everything, therefore, which can be bought and sold is Wealth, whatever its nature or its form may be : and anything which no one wants or demands is not Wealth

Socrates then showed that Gold and Silver are only Wealth in so far as they enable us to obtain or purchase what we want and demand. And that if any thing else will enable us to purchase what we want and demand in the same way that Money does, it is Wealth for the very same reason that gold and silver are

He then instanced persons who gained their living by giving instruction in the various sciences. He said that persons are able to purchase what they want by giving this instruction, just as they are able to do with gold and silver. Consequently he said that the Sciences are Wealth—*αἱ ἐπίστημαι χρήματα οὖσαι* : and that those who are masters of such sciences are so much the richer—*πλουσιώτεροί εἰσι*

Now in instancing the Sciences as Wealth, that is of course a general term for **Labor**: because Labor in Economics is any exertion of human ability, or **Thought**, which is wanted, demanded and paid for. Thus the author of this dialogue showed that Labor is Wealth

Socrates showed that the mind has wants and demands as well as the body ; and that the things which are wanted and demanded for the mind and are paid for, are equally Wealth, as those things which satisfy the wants and demands of the body, and are paid for.

Thus each of the great professions, Law, Physic, Surgery, Engineering, and many others, are great Estates, which produce Utilities, which are as much Wealth as the Utilities which satisfy the wants of the body

Now labor cannot be seen nor handled, it cannot be transferred by manual delivery : but it may be bought and sold : its value may be measured in money : therefore it satisfies Aristotle's definition of wealth. If any person wants any other to do any Labor or Service for him, and pays him for it, its *value is measured in money* as exactly as if it were a material chattel. Suppose that a person gives fifty guineas for a watch or a horse : and also fifty guineas for the opinion of an eminent advocate : the value of the opinion is measured in money as exactly as the value of the watch or the horse : and therefore they are all equally Wealth

So if a person earns an income of some thousands a year as the Manager of a great Mercantile Company—Banking, Insurance, Railway or any other—his Services are as much Wealth to him as corn or cattle to a farmer: or goods to any other trader .

Hence the author of this Dialogue showed that Personal Qualities in the form of Labor are Wealth: which no one perceived till Adam Smith: and thus he anticipated by about 2,176 years, one of the great extensions which Smith gave to the Science

### *Modern Economists include* **Labor** *under the term* **Wealth**

**7.** It has been shown that the Economists expressly excluded Labor, or Services, from the term Wealth

But in accordance with the Author of the Eryxias, Smith enumerates under the term, Fixed Capital[1]—"The acquired and useful abilities of all the inhabitants or members of the Society. The acquisition of such Talents, by the maintenance of the acquirer during his education, study, or apprenticeship, always costs a real expense, which is a Capital fixed and realised as it were in his person. These Talents, as they make part of his Fortune, so do they likewise that of the society to which he belongs"

So also he says:—"The Property which every man has in his own Labor, as it is the original foundation of all other Property, so it is the most sacred and inviolable. The Patrimony of a poor man lies in the strength and dexterity of his hands"

J. B. Say dwelt with emphatic force on the doctrine that Personal Qualities are Wealth. Among many other passages he says[2]—"He who has acquired a Talent at the price of an annual sacrifice, enjoys an accumulated **Capital**, and this Wealth, though **Immaterial**, is, nevertheless, so little fictitious, that he daily exchanges the exercise of his art for gold and silver"

"Since it has been proved that **Immaterial Property**, such as **Talents** and acquired Personal Abilities, form an integral part of Social **Wealth**

"You see that Utility, under whatever form it presents itself, is the source of the value of things: and what may surprise you is that this Utility can be created, can have value, and become the subject of an Exchange, without being incorporated with any material object. A manufacturer of glass places value in sand: a manufacturer of cloth places it in wool: but a Physician sells us a Utility without being incorporated in any matter. This Utility is truly the fruit of his studies, his Labor, and his Capital. We buy it in buying his opinion. It is a real product, but **Immaterial.**"

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[1] *Wealth of Nations, Bk. II., ch. I.*

[2] *Cours, Considérations Générales.*

Say calls all species of Labor and Services **Immaterial Wealth,** because they are vendible products, but not embodied in any matter. This is an excellent name, and we shall adopt it to distinguish this order of Economic Quantities from material things and abstract Rights

We must, however, guard against an erroneous expression of Say's. He says that the manufacturers of glass and cloth place value in sand and wool. This, however is an error. The artisans place their Labor in sand and wool, but it is the *demand* of the consumer which alone gives value to the glass and the cloth

Senior has a long and eloquent passage to the same purpose[1]—"If the question whether Personal Qualities are articles of Wealth had been proposed in classical times, it would have appeared too clear for discussion. [We have already seen that the question was discussed in classical times.] In Athens every one would have replied that they, in fact, constituted the whole value of an ἔμψυχον, ὄργανον. The only differences in this respect between a freeman and a slave are, first, that the freeman sells himself, and only for a period, and to a certain extent; the slave may be sold by others, and absolutely: and, secondly, that the Personal Qualities of the slave are a portion of the wealth of his master: those of the freeman, so far as they can be made the subject of exchange, are part of his own Wealth. They perish indeed by his death, and may be impaired or destroyed by disease or rendered valueless by any change in the custom of the country which shall destroy the demand for his services [thus Senior sees that value depends on *demand* and not upon *labor*] but subject to these contingencies they are **Wealth,** and Wealth of the most valuable kind. The amount of revenue derived from their exercise in England far exceeds the rental of all the lands in Great Britain"

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[1] *Political Economy*, p. 10

So also Senior says—"Even in our present state of civilisation, which high as it appears by comparison, is far short of what may be easily conceived or even of what may be confidently expected, the **Intellectual** and **Moral Capital** of Great Britain far exceeds all the **Material Capital,** not only in importance, but in productiveness. The families that receive mere wages probably do not form a fourth part of the community: and the comparatively larger amount of the wages, even of these, is principally owing to the Capital and Skill, with which their efforts are assisted and directed by the more educated members of the society. Those who receive mere rent, even using that word in its largest sense, are still fewer: and the amount of rent, like that of wages, principally depends on the knowledge by which the gifts of nature are directed and employed. The bulk of the national revenue is Profit: and of that Profit, the portion which is merely interest on Material Capital probably does not amount to one third. The rest is the result of **Personal Capital,** or in other words of Education

"It is not in the accidents of the soil, in the climate, in the existing accumulation of the instruments of production, but in the quantity and diffusion of this **Immaterial Capital** that the wealth of a country depends. The climate, the soil, and the situation of Ireland have been described as superior, and certainly not much inferior to our own. Her poverty has been attributed to the want of Material Capital: but were Ireland now to exchange her native population for seven millions of our English north countrymen, they would quickly create the Capital that is wanted. And were England north of the Trent, to be peopled exclusively by a million of families from the west of Ireland, Lancashire and Yorkshire would still more rapidly resemble Connaught. Ireland is physically poor, because she is morally and intellectually poor. And while she continues uneducated, while the ignorance and the violence of her population render persons and property insecure, and prevent the accumulation, and prohibit the introduction of Capital, legislative measures, intended solely and directly to relieve her poverty, may not indeed be ineffectual, for they may aggravate the disease the symptons of which they are meant to palliate, but undoubtedly will be productive of no permanent benefit. **Knowledge** *has been called power—it is far more certainly* **Wealth.** Asia Minor, Syria, Egypt, and the northern coast of Africa were once among the richest, and are now among the most miserable countries in the world, simply because they have fallen into the hands of a people without a sufficiency of the Immaterial sources of Wealth to keep up the Material ones"

So Mill says[1]—"The skill and energy and the perseverance of the artisans of a country are reckoned part of its Wealth no less than its tools and machinery,"—and why not the skill and energy and perseverance of other classes as well as of artisans? He also says—"acquired capacities, which exist only as a means, and have been called into existence by labor, fall exactly as it seems to me, within that designation"

So Madame Campan inscribed over the Hall of Study in her establishment at St. Germain—

"**Talents** are the ornaments of the rich and the **Wealth** of the poor"

So Cardinal Newman says[2]—"If Gold is Wealth, power, influence: and if Coal is Wealth, power, influence: so is Knowledge."

We have, then, already found two distinct kinds of things which can be bought and sold: or whose *value can be measured in money:* (1) Material things which can be seen and handled, such as money, corn, cattle, lands, houses, &c., which can be transferred by manual delivery: (2) Things like Labor and Knowledge, which can neither be seen nor handled: but which can be bought and sold: and though these two kinds of things have nothing in common besides the capability of being bought and sold: they are each for that reason, comprehended under the term Wealth

### Demosthenes *shows that* Personal Credit *is* Wealth

**8.** But **Personal Qualities** may be used as **Purchasing Power** in another method besides that of **Labor**

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[1] *Principles of Political Economy, Bk.* I., *ch.* iii.

[2] *Historical Sketches, Free Trade in Knowledge, p.* 50.

If a merchant enjoys good "Credit" as it is termed, he may go into the market and buy goods, not with Money, but by giving his **Promise** to pay money at a future time—that is, he creates a **Right of action** against himself. The goods become his property exactly as if he had paid for them in Money. It is a Sale or an Exchange. The Right of action is the price he pays for the goods: it is termed a **Credit**—in French a **Créance**—because it is not a Right to any specific sum of money, but only a Right of action to demand a sum of money from the merchant at a future time

Hence a merchant's **Credit** is Purchasing Power, exactly as Money. The merchant's **Purchasing Power** is his **Money** *and* his **Credit.** They are both therefore equally Wealth, by Mill's definition. When a merchant purchases goods with his **Credit,** instead of with money, his Credit is **valued in money**: because the seller of the goods accepts his Credit as equal in value to Money: his Credit is valued in money exactly as his Labor may be. Hence by Aristotle's definition of Wealth, which is now universally accepted, the merchant's **Personal Credit** is Wealth

So Demosthenes says[1]—

"δυοῖν ἀγαθοῖν ὄντοιν πλούτου τε καὶ πρὸς ἅπαντας πιστεύεσθαι, μεῖζόν ἔστι τὸ τῆς πίστεως ὑπάρχον ἡμῖν"

"*There being two kinds of* **Wealth—Money** *and* **General Credit**—*the greater is* **Credit,** *and we have it*"

So also again[2]—

"εἰ δὲ τοῦτο ἀγνοεῖς ὅτι Πίστις Ἀφορμὴ τῶν πασῶν ἐστι μεγίστη πρὸς χρηματισμὸν πᾶν ἂν ἀγνοήσειας"

"*If you were ignorant of this—that* **Credit** *is the greatest* **Capital** *of all towards the acquisition of Wealth, you would be utterly ignorant*"

Thus Demosthenes shows that Personal Credit is *ἀγαθά*—**Wealth**, Property, Goods, and Chattels—and *ἀφορμή*, or **Capital.**

Thus, though **Personal Credit,** like Labor, can neither be seen nor handled nor touched: yet it can be bought and sold, or exchanged, its *Value can be measured in Money*—it is **Purchasing Power**—and therefore it is **Wealth**

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[1] *Against Leptines*, 484, 20

[2] *For Phormion*, 958

And as we have seen that Adam Smith declares that a man's Labor is his most sacred possession, of which no person has the right to despoil him: so to all Bankers, Merchants and Traders, their **Credit** is their most sacred possession, of which no one has the right, falsely to despoil them

Hence the Personal Credit of all Bankers, Merchants and Traders is an integral and colossal portion of the **National Wealth**—just as the industrial faculties of working men of all kinds are

So also the **Credit** of the State, by which it can purchase Money and other things by giving persons the Right to demand a series of future payments from it, is **National Wealth**

### *Modern Economists include* Personal Credit *under the term* Wealth

**9.** It has been shown that the Economists steadfastly refused to admit that **Personal Credit** is **Wealth**: because they alleged that to allow that would be to maintain that Wealth can be created out of nothing

But contemporary, general, and mercantile writers were entirely against them on that point

Thus Daniel de Foe says[1]—"Credit is so much a tradesman's blessing that it is the choicest Ware he deals in, and he cannot be too chary of it when he has it, or buy it too dear when he wants it: it is a Stock to his warehouse: it is Current Money in his cash chest"

So that keen metaphysician, Bishop Berkeley, who has many searching questions on Economics in his Querist asks—

*Quest.* 35—"Whether **Power** to command the industry of others [*i.e.*, **Credit**] be not real Wealth?"

So Melon says[2]—"To the calculation of values in Money there must be added the current **Credit** of the merchant and his **Possible Credit**"

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[1] *The Complete English Tradesman*, ch. xvii.

[2] *Essai Politique sur le Commerce*, ch. xxiv.

So Dutot says[1]—" Since there has been a regular commerce among men, those who have need of money have made Bills, or Promises to pay money. The first use of Credit, therefore, is to represent Money by Paper. The usage is very old: the first want gave rise to it. It *multiplies* specie considerably: it supplies it where it is wanting, and which would never be sufficient without the Credit: because there is not sufficient Gold and Silver to circulate all the products of nature and art. So there is in commerce a much larger amount in Bills than there is in specie in the possession of the merchants

" A well-managed Credit amounts to tenfold the funds of a merchant, and he gains as much by his Credit as if he had ten times as much Money. This maxim is generally received among all merchants

" **Credit** is, therefore, the greatest **Wealth** to every one who carries on commerce "

So Smith says[2]—" Trade can be extended as Stock increases: and the Credit of a frugal and thriving man increases much faster than his Stock. His trade is extended in proportion to the amount of both [*i.e.*, his **Stock** and his **Credit**], and the sum or amount of his profits is in proportion to the extent of his trade: and his annual accumulation in proportion to his profits "

So Junius says—" **Private Credit is Wealth** "

Franklin says—" **Credit** is **Money** "

Smith expressly includes " Natural and acquired abilities" under the term Fixed Capital. Now Mercantile Character, or **Personal Credit,** evidently comes under the designation of " Natural and acquired abilities." Hence **Personal Credit** is included by Smith under the term **Capital**

No person has more explicitly declared that **Personal Credit is Wealth** than Mill

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[1] *Reflexions sur le Commerce et les Finances*, ch. I., Art. 10

[2] *Wealth of Nations*, *Bk.* I., *c.* 10

He says in the preliminary remarks—" Everything, therefore, forms a part of **Wealth** which has a **Power** of **Purchasing** "

He then says[1]—" For **Credit,** though it is not Productive Power, is **Purchasing Power** "

" The **Credit,** which we are now called upon to consider as a distinct **Purchasing Power** "

He also says[2]—" The amount of **Purchasing Power** which a person can exercise is composed of all the Money in his possession, or due to him (*i.e.*, the Bank Notes, Bills and Credits he has), and of all his **Credit** "

" **Credit,** in short, has exactly the same **Purchasing Power** with **Money** "

And many other passages to the same effect

Now if Mill lays down as the fundamental definition of Wealth—

" Everything that is Purchasing Power is Wealth " And if he says—" **Credit** is **Purchasing Power.**" Then the necessary inference is that—

" **Credit** is **Wealth** "

That is a syllogism in which Mill is safely padlocked, and from which there is no escape

Hosts of passages to a similar effect from other writers might be cited if necessary: but that would be wholly superfluous: because an argument is to be judged of by its own intrinsic force: and not by the number of persons who assert it

The simple statement of the case is this—ancient writers unanimously held, and modern Economists have come at last to agree with them, that the only true definition of Wealth is—Everything whose Value can be measured in money—or which can be bought and sold—**Everything** which has **Purchasing Power.** Now as Personal Credit can be valued in money : and is Purchasing Power : it necessarily follows by the definition, that **Personal Credit** is **Wealth**

### *On* Abstract Rights *as* Wealth

**10.** But there is yet another, or a Third order of Quantities which can be bought and sold, or exchanged: and whose *Value can be measured in Money*: and these are Abstract Rights of various sorts—**Rights** and **Rights of Action**

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[1] *Principles of Political Economy*, Bk. III., Ch. xi. § 3

[2] *Ibid*, Bk. III., ch. xii. § 3

Suppose that a person pays in a sum of money to his account at his banker's—what becomes of that Money? It becomes the absolute Property of the banker. The customer cedes the absolute Property in the Money to the banker: but he does not make him a present of it. He gets something in exchange for it—and what is that something? In exchange for the Money the banker gives his customer a **Credit** in his books: which is a **Right of action** to demand back an equivalent sum of Money whenever he pleases. But it is not a title to any specific sum of money in the banker's possession. It is a mere Abstract Right of action against the person of the banker to demand a sum of money from him. The transaction is a Sale or an Exchange: the banker buys the money from his customer by issuing to him in exchange for it a **Right of action**: and the customer buys this Right of action with Gold.

Furthermore, the banker agrees that his customer may transfer this Right of action to any one else he pleases, by means of a Bank Note or Cheque

So this Right of action may pass through any number of hands, and effect any number of exchanges, exactly like an equal amount of money, until the holder demands payment of it: and it is extinguished

When the holder of the Cheque demands payment of it from the banker, the banker buys up the Right of action against himself with Gold: and the holder of the Cheque sells his Right of action for Gold

The transaction is therefore a Sale or an Exchange: and an act of commerce

Hence the whole series of these transactions are Sales or Exchanges. When the customer pays in money to his account it is an Exchange: when he pays away his Cheque in commerce it is an Exchange: every time the Cheque is transferred it is an Exchange: and finally when payment is demanded from the banker it is an Exchange. All these translations are acts of commerce.

This Right of action is termed a **Credit**: because any one who chooses to take it in Exchange for goods or services, knows that it is not a Title to any specific sum of money in the banker's possession : but it is only an Abstract Right to demand a sum of money from him : and the person who takes it only does so because he has the **Belief** or **Confidence** that the banker can pay if required

It will be convenient to state here that this Right of action is also termed a **Debt** : and that both in Law and common usage the words **Credit** and **Debt** are used quite indiscriminately to mean a Creditor's right of action against his Debtor. The reason of this will be explained in a future section

Similarly when a merchant sells goods "on Credit" as it is termed, to a trader, he cedes the Property in the goods to the trader, exactly as if he had sold them for Money. And in exchange for the goods the trader gives the merchant his **Promise** to pay : or a Right of action to demand Money at a future time—say three months—after date. This Right of action is also termed a **Credit** or a **Debt**. It is the Price the trader pays for the goods. And if it be recorded on paper in the form of a Bill of Exchange, it may be exchanged against other goods, and circulate in commerce, exactly like an equal sum of money, any number of times, until it is paid off and extinguished

Again, suppose that the State wants to borrow money for any public purpose—such as a war, or for some great public work. It buys money from those who are willing to sell it, and in exchange for the money it gives them the Right to Demand a series of payments from the State, either for ever, or for a certain limited time. This Right to demand a series of future payments is termed an **Annuity**, and is the Price the State pays for the Money. In popular language they are termed the **Funds**. And the owners of these Rights may sell them again to any one they please. They are Saleable Commodities, just like any material goods

Suppose, again, that a person subscribes to the Capital of a Joint Stock Company—Banking, Railway, Insurance, Canal, Dock, or any other. He pays the money to the Company which is a distinct Person, quite separate from any individual shareholders, and receives in exchange for it the Right to share in the future profits of the Company. These Rights are termed Shares : and they are also saleable commodities : they may be bought and sold like any material chattels

So when a trader has established a successful business, he has the **Right** to receive the future profits to be made by the business. This **Right** to receive the future profits is a Property quite distinct and separate from the house, or shop, and the actual goods in them. It is additional to them. It is the product of Labor, skill, thought and care, as much as any material chattels, and is a part of the trader's assets. It is termed the **Goodwill** of the business, and is a Saleable Commodity

Thrale, the great brewer, appointed Johnson one of his executors. In that capacity it became his duty to sell the business. When the sale was going on, says Boswell—"Johnson appeared bustling about, with an ink-horn and pen in his button-hole, like an exciseman, and on being asked what he really considered to be the value of the property which was to be disposed of, answered —"We are not here to sell a parcel of vats and boilers but the **Potentiality** of growing rich beyond the dreams of avarice." This latter phrase was merely Johnsonese for the **Goodwill** of the business. The price realised was, we are told elsewhere, £135,000.

When the banking house of Jones Loyd & Co. sold their business to the London and Westminster Bank, it was said in the papers that the price paid was £500,000

Similarly every successful business has a **Goodwill** attached to it which is a Saleable Commodity, and an asset of the trader's

So when an author has published a successful work, the Right to receive the profits to be made by multiplying copies of it is a valuable Right, which may be bought and sold like any material chattel, quite separate from the printed copies of the work. This Right is termed **Copyright**, and is a Saleable Commodity

So when a Professional man has established a successful business, the Right to receive the future profits of the business is a valuable Property, which may be bought and sold. This Property is termed a **Practice** : it is a Saleable Commodity. It is very usual for young professional men to establish themselves by buying a Practice, which then becomes Capital to them

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So there are many other kinds of Property which consist exclusively in Abstract Rights, such as Patents, Tithes, Tolls, Ferries, Shootings, &c., which we need not enumerate further, because our object is to describe a certain Order of Quantities, and not to enumerate them all

Now these Abstract Rights cannot be seen, nor handled, nor touched. But they can be bought or sold, or exchanged. *Their Value can be measured in Money.* They can be transferred from one person to another as easily as any material chattels. Therefore they satisfy Aristotle's definition of Wealth. They all possess that Quality of **Exchangeability** which ancient writers unanimously, and modern Economists now at last, agree, is the sole essence and principle of Wealth. And therefore by the fundamental laws of Natural Philosophy these **Abstract Rights** are all **Wealth**

### *General Rule of* **Roman Law** *that* **Rights** *are* **Wealth**

**11.** Now in the Pandects of Justinian, which are the great Code, or Digest, of Roman Law, it is laid down as a fundamental General Rule

**Pecuniæ** nomine non solum numerata pecunia, sed omnes Res tam soli quam mobiles, et tam corpora quam **Jura** continentur"

"*Under the term* **Wealth,** *not only ready Money, but all things, both immovable and movable, both corporeal things and* **Rights** *are included*"

So the eminent Roman Jurist Ulpian says[1]—

"Nomina eorum qui sub conditione vel in diem debent, et emere et vendere solemus. Ea enim **Res** est quæ **emi** et **venire** potest."

"*We are accustomed to buy and sell* **Debts** *payable at a certain event, or on a certain day. For that is* **Wealth** *which can be bought and sold*"

So it is also said[2]—"Æque **Bonis** adnumerabitur si quid est in Actionibus"

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[1] *Liber* 34, *ad Edict*

[2] *Digest,* 50, 16, 49

"**Rights of action** *are properly reckoned as* **Goods**"

So also[1]—"**Rei** appellatione et **Causæ** et **Jura** continentur"

"*Under the term* **Property** *both* **Rights** *and Rights of action* are included"

So Sir Patrick Colquhoun says[2]—"The first requisite of the consensual contract of *emptio et venditio* is a **Merx**: or object to be transferred from the buyer to the seller: and the first requirement is that it should be *in commercio:* that is capable of being freely bought and sold. Supposing such to be the case, it matters not whether it is an immovable or a movable: corporeal or incorporeal: existent or non-existent: certain or uncertain: the property of the vendor or another: thus a Horse or a **Right of action:** servitude or thing to be acquired: or the acquisition whereof depends on chance

"A purchaser may buy of a farmer the *future crop* of a certain field: wine which may grow next year on a certain vineyard may be bought and sold at so much a pipe: or a certain price may be paid irrespective of quantity or quality: and the price would be due though nothing grew, or for whatever did grow. In the second case the bargain is termed *emptio spei:* and in the first and last *emptio rei speratæ:* which all such bargains are presumed to be in cases of doubt

"The cession of a **Right of action** being legal in the Roman Law: The Right of A to receive a Debt due by B may be sold to C"

Thus it is clearly seen that Abstract Rights of many various sorts, including **Rights of action,** which in Law, Commerce and Economics are termed **Credits,** or **Debts,** are expressly included under the terms **Pecunia** (*Wealth*): **Res** (*Property*): **Bona** (*Goods or Chattels*): and **Merx** (*Merchandise*) in Roman Law

### *General Rule of* Greek Law *that* Rights *are* Wealth

**12.** For nearly 500 years after Constantine removed the seat of Government from Rome to Constantinople, the language of the

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[1] *Digest,* 50, 16, 23

[2] *Summary of Roman Law. Digest,* 18, 34, § 1, 2

Court was Latin, but the people were Greek. Consequently as the official language was Latin, it was unintelligible to the mass of the people.

The great Code of Roman Law, termed the Pandects, was published in A.D. 530 : but all the pleadings in the Courts were carried on in Greek. The Latin Pandects soon fell into desuetude : they were superseded by Greek treatises, translations and compilations. The Latin Institutes of Justinian did not hold their place in the curriculum of legal education for more than ten years. They were superseded by the paraphrase of Theophilus, one of the Professors of Law who were charged with the compilation of the Institutes: and this paraphrase became the text book for the education of law students throughout the Eastern Empire

At last in the ninth and tenth centuries under the Basilian dynasty, all the Pandects, Institutes, and Legislation of Justinian were set aside as obsolete. A reformed Digest or Code was published in Greek which was called the **Basilica**—which may mean either the Imperial Constitutions, or the Code of the Basilian dynasty like the *Code Napoléon*—and this henceforth became the Law of the Eastern Empire: and has remained to the present time as the Common Law of all the Greek population in the East: and is the Common Law of the modern Kingdom of Hellas

And the Roman definition of Wealth is adopted and confirmed.

Thus it is said[1]—"τῷ ὀνόματι τῶν Χρημάτων οὐ μόνον τὰ χρήματα, ἀλλὰ πάντα τὰ κινητὰ καὶ ἀκινητὰ, καὶ τὰ σωματικὰ καὶ Δίκαια δηλοῦται"

"*Under the term* χρήματα, *or Wealth* . . . . **Rights** *are included*"

Also[2]—"τῇ τοῦ πράγματος προσηγορίᾳ καὶ Αἴτιαι καὶ τὰ Δίκαια περιέχεται"

*Under the term* πράγματα, *Goods and Chattels, both* **Rights of action** *and* **Rights** *are included*"

Thus it is seen that by express enactment in Greek Law, the words χρήματα and πράγματα include **Rights** and **Rights of action**

These Rights and Rights of action are also included under the terms 'Ἀγαθά (Goods): περιουσία (Estate): 'Αφορμή (Capital): Οὐσία and Οἶκος (Wealth): and other similar words: they are also called οὐσία ἀφανής, Invisible Wealth. And these words include all the three orders of Economic Quantities

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[1] *Basil.*, II., 2, 214

[2] *Basil.*, II., 2, 21

### *General Rule of* **English Law** *that* **Rights** *are* **Wealth**

**13.** It is exactly the same in English, and every other system of Law: Abstract Rights or Property are included under the term "Goods," "Goods and Chattels," "Chattels," "Merchandise," "Vendible Commodities," "Incorporeal Chattels," and "Incorporeal Wealth" in English Law. And under similar terms in every other system of Jurisprudence

And under **Wealth** and **Capital** in Economics

A **Chattel** means any Property of any sort which is not freehold.

Thus Sheppard says[1]—"All kinds of emblements, sown and growing, grass cut: all money, plate, jewelry, utensils, household stuffs, **Debts**, wood cut, wares in a shop, tools and instruments for work, wares, merchandise, carts, ploughs, coaches, saddles, and the like: all kinds of cattle, as horses, oxen, kine, bullocks, goats, sheep, pigs: and all tame fowl, swans, turkeys, geese, capons, hens, ducks, poultry, and the like: are accounted as **Chattels**

"All Obligations, Bills, Statutes, Recognisances, Judgments, shall be as a **Chattel** in the executor

"All *Right of action* to a Personal Chattel is a **Chattel**"

So in Ford's case[2] it was resolved by Popham, Chief Justice of England and the Court that—"Personal Actions are as well included within the word "Goods" in an Act of Parliament as goods in possession"

So Lord Chancellor Hardwicke said[3]—"The Chattels are . . . . the **Debts** (*i.e.*, Rights of action) due and to be due . . . . and **Debts** come within the words and meaning of the Act, and would pass in a will thereby"

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[1] *Grand Abridgement*, Part I., s. v., Chattels; also *Touchstone*, Vol. II., p. 468

[2] 12, Co. 1

[3] *Ryall* v. *Rowles*, 1, Vesey, 348

Burnet, J., said—"A **Bond Debt** is certainly a **Chattel** . . . the conclusive case is *Ford's case*, that personal actions are included in the word **Goods** in an Act of Parliament, as goods in possession"

Parker, L. C. B., said—"But **Goods** and **Chattels** include **Debts** (Rights of action). . . . Goods and Chattels comprehend things-in-action, in the construction of any Act of Parliament"

Lee, C. J., said—"The inquiry is whether *Choses-in-Action* are not included under Goods and Chattels? And I agree, *Choses-in-Action* will be included herein"

So Blackstone says[1]—"For it is to be understood that in our Law, Chattels, or Goods and Chattels, is a term used to express any Property, which having regard either to subject matter, or quantity of interest therein, is not freehold"

"Property, or Chattels Personal, may be either in possession or action. . . . Property in action is where a man has not the enjoyment (either actual or constructive) of the thing in question, but merely a Right to receive it by a suit or action-at-law"

So Mr. J. Williams says[2]—"Personal Estate is divided in English Law into Chattels Real and Chattels Personal: the latter are again divided into *Choses-in-possession* and *Choses-in-action*"

This work deals exclusively with the Commerce in Rights of action—*i.e.*, their Creation, Transfer, and Extinction: which constitutes the great system of **Credit**: and therefore we shall henceforth confine our attention to them

Rights of action, then, being now shown to be Goods and Chattels, it is absolutely necessary to observe that it is the Abstract Right of action itself which is the "Goods" or "Chattels," and not any material upon which it may be written down

Rights of action, *i.e.*, Credits or Debts, may be bought or sold with perfect facility even in the Abstract state. It is, however, very usual to write them down on paper in the form of Bank Notes, Cheques, Bills of Exchange, and other instruments. By doing this they become capable of manual delivery, and are transferable from hand to hand like Money or any other material chattel.

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[1] Bk. II., Pt. I., c. 5

[2] *Encyl. Brit., vol. xviii., Art. Personal Estate*

Abstract Rights of action are Incorporeal Chattels : but when written down on paper they become Corporeal Chattels, or Material Commodities, exactly like Money

Hence the reader must observe that writing a Right of action down on paper in no way alters its nature. Doing so is merely a convenient form of rendering it capable of being transferred in commerce. But it is exactly of the same nature and effects whether written down on paper or not

### *Modern Economists include* **Rights of Action,** *i.e.*, **Credits** *or* **Debts** : *under the term* **Circulating Capital**

**14.** It has been shown that the Economists steadfastly refused to admit Credits or Debts : *i.e.*, Rights of action : to be Wealth

But it has been shown in the Introduction that Smith expressly classes Bank Notes and Bills of Exchange under the term Circulating Capital : hence Smith expressly recognises the three orders of Exchangeable Quantities : and that Credits are Wealth and Capital

Thus Smith expressly includes Money under the term Circulating Capital. And under Money he includes Bank Notes, Bills of Exchange, &c., which he terms Paper Money—which term is not quite correct—because though under certain circumstances Bank Notes and Bills of Exchange may be, and in an immense number of cases are, Money, as will be seen further on—still they are not absolutely Money. But they are all included under the term Paper Currency

Among several passages it will be sufficient to quote one here[1]—" Suppose that different banks and bankers issue Promissory Notes payable to bearer on demand to the extent of one million, reserving in their different coffers £200,000 for answering occasional demands. There would remain therefore in circulation

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[1] *Wealth of Nations, Bk.* II, *ch.* 2.

£800,000 in gold and silver, and £1,000,000 in Bank Notes: or £1,800,000 of Paper and Money together." He also observes that Credits in the Bank of Amsterdam were termed **Bank Money.** Thus we see that Smith in this and numerous other passages places Paper Credit exactly on the same footing as Money, as independent property, and of the same value as gold and silver

So J. B. Say says[1]—"The exclusive possession which in the midst of society clearly distinguishes the Property of one person from that of another in common usage, is that to which the title of **Wealth** is given [not unless this Property is Exchangeable] . . . Under this title are included not only things which are directly capable of satisfying the wants of man, either natural or social, but the things which can satisfy them only indirectly, such as money, Instruments of Credit *(Titres de Créance)* and the Public Funds"

Thus Say expressly includes **Instruments** of **Credit** and the **Funds,** which are mere **Rights of action,** under the term **Wealth**: and he also includes Bills of Exchange, Bank Notes, and Bank Credits—which are all **Credit**—under the term **Capital**

Thus he says that if a Bank can maintain in circulation a greater quantity of Notes than it retains specie in reserve, it augments by so much the **Capital** of the country

So he also says[2]—"We must include under Capital many objects which have a value, although they are not material. The **Practice** of an advocate or notary: the **Custom** of a shop: the **Representative** of a sign board: the **Title** of a periodical work: are undoubtedly Property *(Biens)*: they may be bought and sold, and be the subject of a contract: and they are also **Capital,** because they are the fruit of accumulated labor." How are Bank Notes and Bills of Exchange, which Say admits to be Capital, the fruit of accumulated labor?

So Mill says[3]—"We have now found that there are other things such as Bank Notes, Bills of Exchange and Cheques [which are Credit] which circulate as Money, and perform all the functions of it"

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[1] *Traité d'Economie Politique*, p. 1

[2] *Cours d'Economie Politique*, Part IV., ch. 5

[3] *Principles of Political Economy*, *Bk.* III., ch. 12. § 1

### He also designates Bank Notes as Productive Capital

Whately is the only English Economist that we are aware of, who has drawn especial attention to Incorporeal Property

He says[1]—"The only difficulty I can foresee as attendant on the language I have been now using, is one which (*i.e.*, defining Political Economy as the Science of Exchanges) vanishes so readily on a moment's reflection as to be hardly worth mentioning.

"In many cases where an Exchange really takes place the fact is liable (till the attention be called to it) to be overlooked, in consequence of our not seeing any actual transfer from hand to hand of a material object. For instance, when the copyright of a book is sold to a publisher, the article transferred is not the mere paper covered with writing, but the exclusive **Privilege** of printing and publishing. It is plain, however, on a moment's thought, that the transaction is as real an exchange as that which takes place between the bookseller and his customers who buy copies of the work. The payment of Rent for land is a transaction of a similar kind, though the land itself is a material object, it is not this that is parted with to the tenant, but the **Right** to till it, or to make use of it in some other specified manner. Sometimes, for instance, Rent is paid for a Right of way through another's field, or for liberty to erect a booth during a fair, or to race or exercise horses"

And Whately says in a note to this passage—"This instance, by the way, evinces the impropriety of limiting the term Wealth to material objects"

Thus in this passage is found the first dim perception, that we are aware of, that all Exchanges consist of the Exchange of Rights against Rights: as will be shown further on

We need not multiply quotations: in fact those we have already given are chiefly for the benefit of lay readers: because it is one of the most elementary principles of Mercantile Law, clearly enforced and explained by every Jurist in the world, that a simple abstract **Right of action, Credit,** or **Debt,** (and other abstract Rights with which we are not concerned in this work) is included under the terms *Pecunia, Res, Bona, Merx*; χρῆμα, πρᾶγμα, οἶκος, οὐσία, ἀγαθά,, &c.: goods, chattels, goods and chattels, vendible commodities, incorporeal chattels, incorporeal wealth: that Rights and Rights of action can be bought and sold or exchanged: their .Value can be measured in money: in every respect like any material chattels

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[1] *Lectures on Political Economy*, p. 6

The stupendous importance of this doctrine, that Rights and Rights of action are goods, chattels, merchandise, vendible commodities and wealth, consists in this, that modern commerce is almost exclusively carried on by means of Rights of action, Credits, or Debts. Money is only used to such an infinitesimal degree that it may almost be neglected. The principal use of Money in commerce now is to keep such a stock of it as may be necessary to maintain the convertibility, or value of the circulating Credits

Moreover, in recent times Rights in the form of Securities of various sorts, and Rights of action in the form of public and private Debts form a most important article of import and export between countries, and have exactly the same effects on the Foreign Exchanges, and the movements of Bullion, as material goods, as will be shown further on 5242

### *There is no such Thing as* **Absolute Wealth**

**15.** The preceding considerations show that there is no such thing as **Absolute Wealth**—that is, there is nothing which is in its own nature, and in all circumstances, in all places, and in all times, Wealth. The sole essence and principle of Wealth is **Exchangeability.** For anything to be Exchangeable it is necessary that someone besides its owner should desire and **Demand** it, and be willing to give something to obtain it. It is only, therefore, human desires and wants, and the capacity to give something to obtain it, that constitutes anything **Wealth.** Things are only Wealth in those places and in those times where and when they are wanted, demanded, and paid for: and consequently they cease to be Wealth when they cease to be wanted and demanded. Therefore the very same things may be Wealth in some places and not in others: and at some times and not at others: and become Wealth more or less, as the Demand for them increases or decreases. Hence the amount of Wealth in any country is simply the mass of Exchangeable Commodities in it

### Economics *or* Commerce *consists of* Six *distinct kinds of* Exchange

**16.** It has now been shown that for 1300 years ancient writers unanimously held that Exchangeability is the sole essence and principle of Wealth. That anything whatever which possesses the principle, or quality, of Exchangeability : everything whatever which can be bought or sold or exchanged : everything whose value can be measured in money : is Wealth : no matter what its form or its nature may be

The ancients also showed that there are Three distinct orders of Quantities which possess the Quality of Exchangeability : or whose Value can be measured in money : namely (1) Material Things : (2) Personal Qualities, both in the form of Labor and Credit : (3) Abstract Rights

And reflection will show that there is nothing which can be bought and sold : or whose Value can be measured in money : which is not of one of these *three* forms : either it is a material thing : or it is a personal service or quality : or it is an Abstract Right

Hence as it is positively known that there is nothing which possesses the Quality of Exchangeability, or whose Value can be measured in money, beyond these three orders of Quantities, the Science is now complete

Now, if all Material things be symbolised by the word **Money** : if all Personal services be symbolised by the word **Labor** : and if all Abstract Rights be symbolised by the word **Credit** : these three distinct orders of Economic Quantities may be symbolised by the words **Money, Labor,** and **Credit**

And all commerce in its widest extent, and in all its forms and varieties : that is the Science of Pure Economics : consists in the Exchanges of these three orders of Quantities

There being then Three, and only Three, distinct orders of Economic Quantities, it is evident that they may be combined two and two in **Six** different ways

These six different kinds of Exchange are—

1. A **Material** thing for a **Material** thing

As when gold money is given in exchange for lands, houses, corn, jewelry, &c.

2. A **Material** thing for **Labor**

As when gold money is paid as wages, fees, or salary for any service done

3. A **Material** thing for a **Right**

As when gold money is given to purchase a Bank Credit, a Bill of Exchange, copyrights, patents, shares in commercial companies, the funds, or any other valuable Right

4. **Labor** for **Labor**

As when persons agree to perform certain amounts of reciprocal services for each other

5. **Labor** for a **Right**

As when a person performs services for another, and is paid in Bank Notes, Cheques, Bills of Exchange

6. A **Right** for a **Right**

As when a Banker buys one Right of action, such as a Bill of Exchange, and gives in exchange for it a Credit in his books: which is another Right of action

Or when a person purchases copyrights, patents, or any other abstract Right, and gives in exchange for them Bank Notes, Cheques, or Bills of Exchange

The Economists only admitted material products to be Wealth: and only treated of one species of Exchange: that of products for products

Beccaria admitted that services are Wealth: and said that all exchanges consist of the exchanges of products for products: products for services: and services for services: thereby admitting *three* kinds of Exchange

But as a matter of fact, there are three orders of Economic, or Exchangeable, Quantities: and therefore there are **Six** distinct kinds of Exchange

The business of Banking includes the Exchanges numbered (3) and (6): it consists in the Exchanges of Credit for Money: and of Credits for Credits

An operation "on Credit" is one in which one or both of the quantities exchanged is a Credit, or Debt

The system of Credit means the Commerce in Rights of Action, Credits or Debts: and is the subject matter of this work

### *On the* **Meaning** *of the word* **Property**

**17.** There being then three orders of Quantities which possess the Quality of Exchangeability, they must, by the Laws of Natural Philosophy, by the unanimous doctrine of ancient writers, and at last by the acknowledgment of all modern Economists, all be included under the term Wealth

The next thing to be done is to find a General Term which will include them all. And this general term will be found in the word **Property.** And when we understand the true and original meaning of the word **Property,** it will throw a blaze of light over the whole Science of Economics: and clear up all the difficulties which the word Wealth has given rise to. In fact, the meaning of the word Property is the key to the whole sciences of Jurisprudence and Economics

Most persons, when they hear the word Property, think of some material things, such as lands, houses, cattle, corn, money, &c. But that is not the true and original meaning of the word **Property**

Property, in its true and original meaning, is not any Thing at all material or otherwise: but it is the **Ownership** or **Absolute Right** to something

Savages have very feeble notions of abstract Rights. Their ideas of Wealth are something which they can lay hold of: something which they can only acquire by violence, and which they can only retain by bodily force. They have no idea of abstract Rights separated from anything material

So in archaic jurisprudence, Wealth, or Property, is described as anything material, which can only be retained by manual force and transferred by manual delivery

In early Roman jurisprudence a person's possessions were called **Mancipium**: because they were supposed to be acquired by the strong hand: and if not held with a very firm grasp would probably be lost

But as civilisation and firm government succeed, men's ideas are transferred from the actual material things to the **Personal Rights** in them

Thus in the course of time the word **Mancipium**, which originally meant the material things which were held by the hand, came to mean the absolute **Right** to them: and in early Roman Law, Mancipium came to mean **Absolute Ownership**

Thus Lucretius says[1]—

"Vitaque **Mancipio** nulli datur, omnibus usu"

"*And life is given in* **Absolute Ownership** *to none, but only as a Loan to all*"

In process of time the word **Property** came to be denoted by a term which meant a pure **Abstract Right**

All the possessions of the family belonged to the family (*Domus*) as a whole. But the Head of the house (*Dominus*, δεσπότης) alone exercised all **Rights** over them. He alone had the absolute ownership of his *familia*, or household, including his wife, children, slaves, and all its possessions. Hence this Right was called *Dominium*, δεσποτεία: and *Dominium* was always used in Roman Law to denote **Absolute Ownership**

So long as the *Patria Potestas* subsisted in its pristine rigor, no member of the family could have any individual Rights to things. But in the times of the early Emperors the extreme rigor of the *Patria Potestas* was relaxed. In some cases individual members of the family were allowed to have Rights to possessions independently of the head of the house and its other members: and this **Right** was termed **Proprietas**

Sometimes the *Dominus* granted the exclusive Rights to certain things to his sons and slaves. This Right was termed *Peculium*

The Emperors Augustus, Nero, and Trajan enacted that the sons of the family might possess in their own right, and dispose of by will, as if they were *Domini*, what they acquired in war. This was termed *Castrense Peculium*

This Right of holding possessions independently of the other members of the family was considerably extended by subsequent Emperors, and was always called **Proprietas**

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[1] *De Rerum Naturâ*, III., 971

**Proprietas,** therefore, in Roman Law meant the absolute and exclusive **Right** which a person had to anything independently of any one else: and was synonymous with *Dominium.* Neratius, a jurist of the time of Hadrian, says—"**Proprietas** id est **Dominium**"—"**Property** that is **Ownership**"

So Gaius says—"Non solum autem Proprietas per eos quos in potestate habemus adquiritur nobis"

"*Not only, therefore, do we acquire absolute Property through those whom we have in our power*"

So also Justinian—"Transfert Proprietatem rerum"

"*Transfers the Property in the goods*"

and in other instances too numerous to cite

Thus the word **Proprietas** in Roman Law never meant a material thing: it meant exclusively the **Absolute Right** to it: the thing itself was termed **Materia**

### *Meaning of the word* Property *in English*

**18.** So also in early English the word **Property** invariably means a **Right** and not a **Thing**

Thus grand old Wycliffe says—"They will have Property in ghostly goods where no Property may be: and have no Property in worldly goods where Christian men may have Property"

So Bacon invariably uses the word **Property** to mean a Right and never a **Thing.** He says one of the uses of the Law "is to dispose of the Property of their goods and chattels." He explains the various methods by which Property in goods and chattels may be acquired. So he speaks of the "Property or Interest in a timber tree"

In Comyn's great Digest of the Law there is not a single instance of the word Property being applied to material things. He uses it invariably to mean Absolute Ownership

Thus up to the middle of the last century Property was invariably used to mean Absolute Ownership: and was never applied, at least in any work of authority, to material substances.

Every Jurist knows that the true meaning of the word Property is a Right, and not a Thing. Thus Erskine says[1]—"The sovereign or real Right is that of Property, which is the Right of using and disposing a subject as our own, except so far as we are restrained by law or paction"

This meaning of Property has been understood by Economists as well as by Jurists. Thus Mercière de la Rivière, one of the most eminent of the French Economists, says[2]—"Property is nothing but the Right to enjoy. . . . It is seen that there is but one Right of Property: that is, a Right in a person: but which changes its name according to the nature of the object to which it is applied"

Nor is the word Property in any way restricted to the Rights to material substances: but it is also applied to the Rights to Abstract Rights

Thus Landed Property means Rights to lands and houses: Real Property means Rights to realty: Personal Property means Rights to personal chattels

Funded Property is the Right to demand a series of payments from the State: Literary Property is the Right to the profits from works of literature: Artistic Property is the Right to profits from works of art: Dramatic Property is the Rights to the profits from dramatic representations: Newspaper Property is the Right to the profits from publishing certain newspapers: so there are many other kinds of Incorporeal Property, such as Shares in Commercial Companies of all sorts: the Goodwill of a business: a Professional Practice: Patents: Tithes: Advowsons: Shootings: Fisheries: Market Rights: and many other kinds of Valuable Rights

So when a person has sold goods "on Credit," and has acquired a Right of action in exchange for them, termed a Credit, or a Debt, he has a Property in this Right of action, and can sell it like any material chattel

This appears still more clearly in the Law of Scotland, in which what is termed Real Property in England is termed

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[1] *Institutes of the Law of Scotland*

[2] *L'Ordre Naturel des Sociétés Politiques*, ch. xviii.

Heritable Rights: because the Rights to them pass to the heir. And what is termed Personal Property in England is termed Movable Rights in Scotland: because the Rights to them pass, or move, to the Executor: and under the term Movable Rights, Credits, Debts, or Rights of action are included

Hence Abstract Rights are the subjects of Property exactly in the same way as Material Chattels

When the Socialists and Communists wish to destroy Property, it is not the Material Things they wish to destroy: but the exclusive Rights which private persons have in them

We shall find further on that there is a whole class of words which, like **Mancipium,** in early times and in classical Latin, meant material things, have in the progress of civilisation and Jurisprudence, and in modern Mercantile Law, come to mean Abstract Rights: and by a reverse process most unfortunately many words which really mean Abstract Rights have been perverted to mean Material Things—to the great confusion of Jurisprudence and Economics

The word **Property** means Absolute, Entire and Exclusive Ownership: it is the absolute Right to deal with the objects Material, Immaterial, and Incorporeal, in any way the owner pleases, except in so far as he is restrained by Law

The term **Property** comprehends—

1. The **Jus Possidendi**: or the Right of Possession of the object
2. The **Jus Utendi**: or the Right of using it in any way the owner pleases
3. The **Jus Fruendi**: or the Right of appropriating any fruits, or profit, from it
4. The **Jus Abutendi**: or the Right of alienating or destroying it
5. The **Jus Vindicandi**: or the Right of recovering it, if found in the wrongful possession of any one else

Property, or Dominion, then does not mean any single Right: but an aggregate or bundle of Rights: it comprehends the Totality of Rights, which can be exercised over anything

### *On the* **Right** *of* **Property** *and the* **Right** *of* **Possession**

**19.** But though all Property is a Right, it must be observed that all Rights are not Property

There is an essential distinction between the **Right of Property** and the mere **Right** of **Possession** or of **Use**

Thus, where one person lends his horse, or a book, or other chattel to another: or delivers goods to him as a common carrier by sea or land, to be carried from one place to another: or deposits goods, or valuables, with him as a warehouseman, for the mere purpose of being safely kept: or by way of pledge or lien: or hires a house, a horse, or land, or plate, or any chattel: or finds valuable goods: in these and other cases he has the mere **Right** of **Possession** of the various things: and he can bring an action against any one who deprives him of their possession. But he has no Right to use the goods except in the way, and for the specific purpose for which they were delivered to him. He has, therefore, only a specific Right to hold them: and not the absolute ownership in them, to deal with them in any way he pleases

Some of the most subtle and important doctrines in Economics are based entirely on the distinction between Right of Property and Right of Possession

### *Application of the* **Positive** *and* **Negative Signs** *to* **Property**

**20.** Economic Quantities, or Economic Rights, are, then of three distinct orders—

(1) Rights or Property in some material thing which *has been* already acquired

(2) Rights or Property in Labor or Services

(3) Rights or Property in something which is only *to be* acquired at some *future* time

Now we observe that the First and the Third of the Economic Quantities, or Rights, enumerated above are Inverse, or Opposite, to each other. Property, like Janus, has two faces placed back to back. It regards the Past and the Future.[1] We may buy and sell a Right to a thing which *has already been* acquired in time

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[1] *See Maynz*, I., 197, *on Droits Futures*

*past:* and we may also buy and sell a Right to a thing which is only *to be* acquired in time future

Now it is one of the innumerable applications of the Algebraical Signs + and –, that if any point in time be taken as 0, then Time *before* this epoch, and time *after* this epoch are denoted by the opposite signs + and —: which sign is used to denote either Time being a matter of pure convention

Let us denote Time present by 0: Time *past* as +; and Time *future* by –

It will then be represented thus—

+ 5, + 4, + 3, + 2, + 1, 0, – 1, – 2, – 3, – 4, – 5. &c., &c.
and it is evident that the Totality of Time from any year preceding the given era 0, to any year subsequent to the given era, will be the sum of the Positive and Negative years

Thus, if we take the Christian era as 0: years before it as Positive: and years after it as Negative: then the total period from the foundation of Rome to the present time will be + 753 years, together with — 1893 years, or 2646 years altogether

Hence the products which have already been acquired in the Past, or Positive years, may be termed **Positive Products**: and the products which are to be acquired in the Future, or Negative years, may be termed **Negative Products**

Now in all mathematical and physical sciences it is invariably the custom to denote similar Quantities, but of opposite Qualities, by the opposite signs + and –

Hence, as a matter of simple convenience, and following the invariable custom in mathematical and physical science, if we denote Property in a product which has been already acquired in time past as **Positive**: we may, as a mark of distinction, denote Property in a product which is only to be acquired in time *future*, as **Negative**

Now Property in a thing which has already come into possession in time past is **Corporeal Property**: and as we have assumed above time *past* as positive, Corporeal Property may be termed a **Positive Economic Quantity**: and as Property in a thing *to be* acquired at some *future* time is **Incorporeal Property,** and as we have above denoted time *future* as negative: **Incorporeal Property** may be aptly designated as a **Negative Economic Quantity**

And as in all mathematical and physical sciences, the whole Science comprehends both Positive Quantities and Negative Quantities: so the whole Science of Economics comprehends both Positive Economic Quantities and Negative Economic Quantities: both Corporeal Property and Incorporeal Property

By this means we double the field of Economics as usually treated: and we do in Economics what those have done in the various mathematical and physical sciences who introduced Negative Quantities into them

By this means we are enabled to obtain the solution of problems which have hitherto baffled all Economists: and it is by this means only, that the Theory of Credit can be explained

### *On the* Theory *of the* Value *of* Land

**21.** We shall now show the great practical importance of applying the Positive and Negative signs to Property: and of denoting the Right to a Property in things which have already come into possession as *Positive*: and the Right or Property to things which will only come into possession at some future time as *Negative*. Because many species of Property are of a mixed nature: that is, the entire Property in them consists partly of Corporeal Property and partly of Incorporeal Property

Property in Land is the highest Property of all: and to understand the nature of Property in Land is the grammar of Property in general

Suppose that we saw a piece of Land on which there were actually existing products of the Value of £3,000. Suppose that we wished to purchase that piece of Land. Would the owner of the Land be content to sell it to us for £3,000? Most assuredly not. He would say that though there were only products of the value of £3,000 on the land in actual existence at the present time, yet that the Land would produce a similar amount of products to the end of time. He would say that we must purchase not only the right to the existing products of the land, but also the Right to the annual products of the land to the end of time—that is an infinite series of future products which will only come into existence year by year

Thus Property in Land consists of two perfectly distinct parts : the Right to the products which *have already* come into existence : and the Right to the products which *will* only come into existence in *future*

Thus Property in Land may be conveniently denoted thus—

Existing products of the land (+ £3,000) : together with (— £3,000, — £3,000, — £3,000 . . . . for ever)

Where the Positive Sign denotes the products which have already come into existence : and the Negative Sign denotes the products which will only come into existence year by year for ever

But though the yearly products of the land will only come into existence at future intervals of time, the Right, or Property, to them when they do come into existence is **Present** : and it may be bought and sold like any material chattel, like a watch, or a horse. That is to say, each of these annual products for ever has a **Present Value** : and the purchase money of the land is simply the *Sum of the Present Values of this infinite series of future products*

Again, although this series of future products is infinite, a simple Algebraical formula shows that it has a finite limit : and that finite limit depends chiefly on the usual average Rate of Interest. When the usual average Rate of Interest is 3 per cent., the theoretical value of the land would be about 33 times its annual value. Consequently, of the total value of land, one part only is Corporeal : the remaining 32 parts are Incorporeal

Now when a purchaser has bought an estate in land, it may be said without any great metaphor, that it **owes** him a series of annual payments for ever. Because he only bought it on the belief or expectation, that it would yield these profits. Hence, we may call the Right to receive the future profits of the land the **Credit** of the land. And by the notation we have adopted, it is a **Negative Economic Quantity**

Thus the purchase of an estate in land is simply the purchase of a perpetual Annuity

### *Every Sum of Money is* **Equivalent** *to the* **Sum** *of the* **Present Values** *of an* **Infinite Series** *of* **Future Payments**

**22.** The investigation of the Theory of the Value of Land demonstrates a proposition of great importance in Economics

It is seen that the £100,000 given to purchase the estate in land expected to produce £3,000 a year, is in reality the Sum of the Rights to its future products for ever. Each annual product has a **Present Value**: and the Value of the land is simply the Sum of this infinite series of Present Values

But the same is evidently true of every sum of money. Hence every sum of money is not only equal in value to a certain quantity of material goods: or to a certain quantity of services: but also to a **Perpetual Annuity**

An Annuity is the Right to receive a series of future payments. The lowest form of an Annuity is the Right to receive a single future payment: such as a Bank Note, a Cheque, or a Bill of Exchange. The highest form is the Right to receive an infinite series of future payments: such as the Land or the Funds. And there may be also the Right to receive a limited number of future payments intermediate between the other two: which is called a Terminable Annuity

Hence an Annuity, or the Right to receive a series of future payments, is an Economic Quantity, which may be bought or sold, or exchanged: or whose Value may be measured in money: like any material chattel

As when a sum of Money is given to purchase Land: or the Funds: or Municipal or other Obligations, such as Railway Debentures

So an Annuity may be paid to secure a certain sum of money at a given time: or on a given contingency: such as a life or fire insurance

It is thus seen that Economics comprehends Three great departments: (1) Material things: (2) Personal Qualities: (3) Annuities

The first school of Economists restricted their attention to the first of these departments: and refused to take any notice of the other two: Adam Smith, J. B. Say, and J. S. Mill have given much attention to the second : and treated Labor as a marketable commodity : they have also noticed the existence of the third department, but they never made any attempt to exhibit the commerce in Rights. And yet at the present day it is the most extensive of any : because it comprehends the whole Theory of the Value of Land : the Funds : Mercantile Credit : Banking : the Foreign Exchanges : Shares in Commercial Companies : and all other Incorporeal Wealth

### **Personal Credit**—*A successful* **Trader** *is an* **Economic Quantity** *Analogous to the* **Land**

**23.** Now a person exercising any profitable business or profession is an Economic Quantity exactly analogous to Land

The Land has produced profits in the past, but it has equal capacity to produce profits in future

So a merchant or a professional man may have accumulated a quantity of Money as the fruits of his skill, industry, and ability in the past. But over and above his accumulated Money, he has the same skill, industry, and ability to earn profits in the future. His capacity to earn profits in the future is exactly the same as his capacity to have earned profits in the past. And of course he has the Right or Property in his expected profits of the future

And he may trade in two ways : he may trade with the Money he has already acquired, the profits of the past : or he may trade by purchasing goods by giving in exchange for them the Right, or Property, to demand payment at a future time out of the profits he expects to earn in the future

Personal Character used to trade in this way as Purchasing Power is termed **Credit.** And as we have seen that **Anything** which has **Purchasing Power** is Wealth : it follows that **Money** and **Credit** are equally **Wealth**

But it is evident that Money and Credit are Inverse and Opposite to each other. Hence if **Money** is a **Positive Economic Quantity, Credit** is a **Negative Economic Quantity**

### *All* **Annuities** *are* **Negative Economic Quantities**

**24.** Hence it is seen that all **Annuities** or Rights to receive a series of future payments : whether the Right be to receive a single future payment: or a limited or an infinite number of them, are **Negative Economic Quantities**

These Negative Economic Quantities comprehend all Mercantile and Banking Credit: such as Bank Notes, Cheques, Bills of Exchange, and all Instruments of Credit: Exchequer Bills: Navy Bills: Dividend Warrants, &c.: the Land: the Funds: terminable Annuities: Shares in Commercial Companies: the Goodwill of a business: a professional Practice: Copyrights: Patents: Tolls: Ferries: Market Rights: Advowsons: Benefices: Shootings: Fisheries: Leaseholds: Policies of Insurance of different kinds: and many other valuable Rights: amounting in value to scores of thousands of Millions in this country: of which there is scarcely a notice in the usual text-books on Economics

### *Conspectus of the* **Totality** *of* **Property**

**25.** As Labor and Services perish in the very act of being performed, we may denote Property in them as Property in the present

The other two kinds of Property are of continuous endurance, and may be transferred any number of times; and we may denote them thus—

Property consists of

| Property in the Produce of the Past | Present Time | Property in the Produce of the Future |
|---|---|---|
| + | o | — |
| Lands, Houses, &c. | | Annual Income for ever |
| Money already earned by a Merchant | | His Credit |
| Premises, Stock of goods in a shop | | The Goodwill |
| Money already earned by a Professional man | | The Practice |
| The printed copies of a Book, &c. | | The Copyright |
| Machines already made | | The Patent |
| The Capital of a Commercial Company | | The Shares |
| | | Annuities of all sorts; The Funds: Tolls: Ferries: Ground Rents, &c. |

Now each kind of Property may be bought and sold: and is therefore Wealth: as declared 1,300 years ago in Roman Law. By including both Species of Property under the term Wealth we double the field of Economics, as usually treated: and give it the same extension that introducing Negative Quantities does in Mathematics and Natural Philosophy

### **Wealth** *in Economics is an* **Exchangeable Right**

**26.** It follows from the preceding considerations, that the true definition of **Wealth** in Economics is an **Exchangeable Right**

Now there are **Three** kinds of Rights, or Property, which can be bought and sold: or whose Value can be measured in Money

I. **Corporeal** or **Material** Property or Rights. There may be the Right or Property in some specific material substance which has already come into existence: and has come into the actual possession of the owner. This Species of Property in Roman and English Law is termed Corporeal Property: because it is the Right to certain specific *corpus.* It is also called Material Property: because it is the right to certain specific Matter. Hence we term this Species of Property **Corporeal** or **Material Wealth**

II. **Immaterial Property.** The Property which a man has in his own mental and intellectual Qualities: in his own Labor: or in his capacity to render any sort of service. As Smith says—"The Property which every man has in his own Labor, as it is the original foundation of all other property, so it is the most sacred and inviolable"

Now a person may sell the Right to demand some Labor or Service from him. As all these services, though they require some bodily instrument to give effect to them, are in reality, operations of the mind, we may call them **Immaterial** Property: or **Immaterial Wealth**: as J. B. Say, the French Economist does

III. **Incorporeal Property.** There is lastly a third kind of Property, or Right, wholly separated and severed from any specific *corpus*, or matter in possession. It may either be in the possession of some one else at the present time : and may only come into our possession at some future time : or it may be even not in existence at the present time

Thus we may have the Right, or Property, to demand a sum of money from some person at some future time. That sum of money may no doubt be in existence at the present time : but it is not in our possession : it may not even be in the present possession of the person bound to pay it. It may pass through any number of hands before it is paid to us. But yet our Right to demand it at the proper time is present and existing, and we may sell or transfer that Right to any one else for Money

We may also have the Right to something which is not yet even in existence ; but will only come into existence at a future time

Thus those who possess lands, cattle, fruit trees, &c., have the Right, or Property, in their future produce. This produce is not in existence at the present time : it will only come into existence at a future time : but the Right, or Property, to it when it does come into existence is present and existing : and may be bought and sold like the Right to any material product. This species of property is called in Roman Law and English Law, **Incorporeal Property** : because it is a Right, but separated from any specific *corpus*. Hence it is called **Incorporeal Wealth**

But all these three different kinds of Rights possess the Quality of Exchangeability ; they can all be equally bought and sold, or exchanged : the value of each of them can be measured in money : they are all equally merchandise, or articles of commerce. They are each therefore, *Pecunia*, *Res*, *Bona*, *Merx ;* χρήματα, πράγματα, οἶκος, οὐσία ἀγαθά, &c. : goods, chattels, merchandise, vendible commodities, wealth : in the jurisprudence of all nations

And as it is the Quality of Exchangeability which alone constitutes anything Wealth : and is the sole Quality which Economics regards : it follows that all these Three kinds of Rights are equally Wealth in Economics. And all the fundamental Concepts and Definitions, and all the Laws of Economics must be enlarged and generalised, so as to comprehend indifferently the Exchanges of these three orders of Rights

### *On the* **Meaning** *of* **Persona** *in* **Roman Law**

**27.** It will be very useful to understand the meaning of **Persona** in Roman Law

The word **Persona** means any single person, or any society of persons, who can enjoy and exercise Rights: and who are subject to perform Duties

Thus in a Partnership each individual member is a *Persona:* but also the Partnership is a *Persona:* quite separate and distinct from its individual members

Hence each member of the Partnership can buy and sell with the Partnership as a separate individual

So a Joint Stock Company is a *Persona,* and when the individual members pay their money to it, the property in the money is gone from them individually, and vests in the Company as a *Persona*

The separate members can buy and sell with the Company as with a separate individual

And the Company has Rights and Duties quite separate from its separate members

So the State is a *Persona* quite separate from its individual citizens: and they can lend money to the State as a separate person

So every Municipal or Incorporated body is a *Persona,* quite separate from the individual citizens

The Parson of the parish is the *Persona* who has the Right to receive certain dues for performing religious duties: and this Right is termed a Benefice

Thus a *Persona* may be defined as a centre of Rights and Duties

Many separate individuals may make up one juridical *Persona;* and one individual may combine several *Personæ* or legal characters

Thus Cicero says[1]—"Itaque . . . . tres personas sustineo summâ æquanimitate, meam, adversarii, judicis"

"*Thus I sustain three characters with the greatest equanimity, my own, my opponent's, and the judge's*"

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[1] *De Oratore,* II. 24. See also *Maynz,* I. 204, on Persons

Thus one individual may be the executor of one person : the trustee of another: the guardian of another. In each of these characters he is a separate **Persona**, with a distinct set of Rights and Duties. And he may buy and sell, or exchange with himself, in these separate *Personæ*, or characters. Hence all exchanges take place between separate *personæ*

When an individual combines several *Personæ* it is a fundamental principle that he may act in each *Persona*, as a separate individual ; which leads sometimes to somewhat curious consequences

He may not only buy and sell with himself : but he may come into legal collision with himself in consequence of fulfilling these several characters, of which we may give an amusing instance—

The right of salmon fishing is a sore subject with Scotch littoral proprietors. Salmon is claimed as a royal fish in Scotland. On one occasion a great Scottish proprietor found himself in collision with the Crown on the subject of salmon rights. The action was against the President of the Board of Trade. But in the whirligig of politics, the noble Duke found himself President of the Board of Trade : so that the Duke as a great salmon proprietor, found himself suing himself as President of the Board of Trade, and guardian of the interests of the Crown

It is not unusual for Indian Officials to be the heads of different offices, and many amusing stories are told of them finding themselves in collision with themselves as to the Rights and Duties of their several Offices : and of hostile correspondence they carry on with themselves in their separate *Personæ*

Sir Thomas Farrer has supplied me with a tragi-comic example of this principle.—" There was a Treasurer in one of the West Indian Islands who was also Attorney-General. As Treasurer he committed peculation, and was prosecuted by the Governor. The lawyers being scarce he applied for leave to draw his own indictment : obtained leave : drew the indictment : received a fee for it : and was convicted on it "

So a clergyman may read the marriage service at his own marriage in the *personæ* of clergyman and bridegroom

So when a Railway company carries materials for its own use, it is both its own carrier and its own customer. It takes the money out of one drawer as expenditure, and puts it into another drawer as profits

It has sometimes happened that a magistrate has unwittingly committed a breach of the law, and in his *Persona* of magistrate he has publicly fined himself in his *Persona* of culprit

On one occasion a young friend of mine was a candidate for the Civil Service. He required to produce a testimonial from a householder that he was of good character, and the householder required to produce a testimonial from a J.P. that he was of good character. In my *persona* of householder I gave a testimonial to the candidate: and in my *persona* of J.P. I gave a testimonial to myself in my *persona* of householder

So one individual may be both a Creditor and a Debtor. He is an active agent as regards his Debtor: and a passive agent as regards his Creditor

But his Creditor may put his Debt against him into circulation. When it is presented to him for payment he buys up the Right of action against himself. He thus becomes both Creditor to himself and Debtor to himself

This is called *Confusio* in Roman Law, and will be considered more at length hereafter

### *On the meaning of* **Res** *in Roman Law*

**28.** As *Persona* means any person, single or corporate, which can enjoy and exercise Rights: and is subject to perform Duties: so **Res** in Roman Law came to mean anything whatever which can be the subject of a Right

Thus Material Things are the subjects of Rights, or Property: and they are termed **Res Corporales**: because they are Rights clothed with a *corpus*

The word **Res** in Latin is one of a class which in archaic Roman jurisprudence meant exclusively material things

Thus Cicero says[1]—"Erat Res in pecore et locorum possessionibus, ex quo pecuniosi et locupletes vocabantur"—in the time of Romulus

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[1] *De Republicâ*, II., 9-14: (*compare Plutarch*, *Q. Roman*, xv.)

*"Wealth then consisted in cattle and land, whence they were called cattled men and landed men"*

But also a person may have the Right to receive some payment or profit at a future time

The future payment or profit may not have come into possession: or it may not yet even have come into existence: but yet the Right to it has a present existence

These Abstract Rights to receive future payments, or profits, are termed **Res Incorporales** in Roman Law: because they are Rights: but not clothed with any *corpus*

In recent times these Incorporeal Rights have increased in magnitude and multiplied in kind to an enormous extent in our present state of civilisation: and increased at a much greater ratio than Corporeal Property

**Res** in later Roman jurisprudence was enlarged to mean anything whatever to which a person has a right. Now a man has a Right or Property in his own Labor: and he can sell the Right to demand some Labor or Service from him to some one else: and so that other person acquires the Right to demand so much Labor or Service from him: hence Labor and Services are the subjects of Rights: and therefore they are expressly included under **Res** in Roman Law

Moreover, a person has the Right to enjoy his character uninjured: hence Personal Character is a *jus in rem:* and a person whose character was attacked had an *Actio in rem*

A banker's or a merchant's Personal Credit is a part of his Purchasing Power, or Wealth: just as the Labor of the working man is part of his Purchasing Power, or Wealth: and it is just as great a crime to rob a banker or a merchant of his Personal Credit as to rob him of his money. Hence Personal Credit is **Res.** And a banker or a merchant whose Credit is wrongfully attacked has an *Actio in rem*

### **Jurisprudence** *is the Science of* **Rights**

**29.** Several eminent Jurists have observed that Jurisprudence is the Science which treats exclusively about Rights. When a person has the Property in anything, it is necessarily implied that every one else is prohibited from infringing his Right of enjoying his Property uninjured. And if any one infringes this legal Right, the Proprietor has an action against the wrongdoer

Jurisprudence consists in ascertaining, defining, protecting and transferring Rights. Ortolan observes that Jurisprudence has nothing to do with the things themselves, but only with the Rights to them. And Lord Mackenzie says[1]—“ Natural Philosophy considers things according to their physical properties: Law regards them as the objects of Rights ”

On **Injury** (*Injuria*) is the infringement of a Legal **Right.** In all actions for damages the action is not for the damage done to the thing itself: but for the infringement of the owner's Right to enjoy the thing itself in a perfect state

If I drive my carriage against the carriage of another person and damage it: the action does not lie for the damage done to the carriage itself: but for the infringement of the owner's legal Right to enjoy the carriage in a perfect state

If there is no legal Right in the object there can be no Injury, or Infringement of a Legal Right: and therefore no Right of action

In many cases one person may damage another person's Property without any Injury, or Infringement of a Legal Right. If one person keeps an hotel or a shop, another person may set up a rival hotel or shop: and draw away custom from his rival. This may be a damage done to the Property of the first person: but it is not an Injury, or the Infringement of a legal Right. Because one person has as much Right to set up an hotel or a shop as another: and the public has the Right to go to which hotel or shop they please

So if one person writes a book on any subject, any other person has an equal Right to write a better book on the same subject if he can: and so he may damage the sale of the first: but it is no Injury, or Infringement of a legal Right. The public has the right of choice between the rival books, and if it chooses to prefer one to the other it is no injury

In these and innumerable other cases of a similar nature, the damage done is termed *damnum absque injuriâ:* because it is a damage done, but it is not the infringement of a legal Right, and it is not a ground of a Right of action

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[1] *Roman Law*, p. 54

So a banker's, a merchant's, or a trader's mercantile character, or **Credit** as it is termed, is his Property: which he has the Right to enjoy uninjured: it is a *Jus in rem:* and if any one spreads slanderous reports about it, which damages his Purchasing Power, or Wealth, it is a serious Injury, or Infringement of a legal Right: and is the ground for an action

### **Economics,** *or* **Commerce,** *is the Science of the* **Exchanges** *of* **Rights**

**30.** We have found that the true meaning of **Wealth** in Economics is an **Exchangeable Right**: and that there are three orders of these Exchangeable Rights: hence these three orders of Rights may be exchanged in **Six** different ways

1. The Right, or Property, in a material thing may be exchanged for the Right, or Property, in another material thing

As when the Property in so much gold is exchanged for the Property in so much corn, or cattle, timber, jewelry, &c.

2. The Right, or Property, in a material thing may be exchanged for the Right to demand so much Labor or Service

As when the Property in so much gold is exchanged for the Right to demand so much Labor in any form

3. The Right, or Property, in a material thing may be exchanged for the Right to an Abstract Right

As when the Property in so much gold is exchanged for the Right to a Bank Note, Cheque, Bill of Exchange: the Funds, or any other Incorporeal Property

4. The Right, or Property, in so much Labor, or Service, may be exchanged for the Right to demand so much Labor or Service from some one else

As when persons agree to perform reciprocal services for each other, which are estimated as equivalent

5. The Right, or Property, to demand so much Labor, or Service, may be exchanged for an abstract Right

As when Labor or Service of any kind is paid for in Bank Notes, Cheques, or Bills

6. The Right or Property, in one abstract Right may be exchanged for the Right or Property in another abstract Right

As when a banker buys, or discounts, a Bill of Exchange, which is an abstract Right, by giving in exchange for it a Credit in his books, termed in banking language a Deposit, which is another abstract Right

Or a publisher buys the Copyright of a work by giving Bills of Exchange for it

Thus it is seen that all Exchanges are of Rights against Rights : and these Six kinds of Exchange constitute Commerce in all its forms and varieties: or the Science of Pure Economics

### *Reply to the* **Dogma** *of the Economists that* **Immaterial** *and* **Incorporeal Quantities** *are not to be admitted to be* **Wealth**

**31.** We have shown that the Economists steadfastly refused to admit that Labor and Credit are Wealth : because they alleged that to term them Wealth, would be to maintain that Wealth can be created out of Nothing

But we have also shown that ancient writers unanimously held that Labor and Credit are Wealth—and that modern writers now also unanimously hold that Labor and Credit are Wealth—in total defiance of the dogma that Nothing can come out of Nothing

Of course the whole discussion turns on the meaning of Wealth. The Economists persisted in restricting the term to material things only, and certainly no one thinks of maintaining that material things can be created of nothing

But we have shown that it is contrary to the recognised laws of Natural Philosophy to admit that the essence of Wealth consists in Exchangeability, and then to restrict it to material Exchangeable Quantities only. The ancients were infinitely more scientific. As soon as they recognised that Exchangeability is the essence of Wealth, with true Philosophy, they included everything whatever which is Exchangeable under the term Wealth

Adam Smith burst the bonds of the narrow and unscientific dogma of the Economists, and recognised three orders of Exchangeable Quantities as Wealth and Capital : in which he has been followed by J. B. Say and J. S. Mill: and all modern Economists of repute

Nevertheless there are still some people who feel a difficulty on the subject: and are somewhat startled at the idea that Wealth can be created out of Nothing. We shall see what a facile answer can be given to the dogma of the Economists by the considerations we have presented

The real difficulty which impedes the true apprehension of the subject, is very similar to that which for a long time obstructed the reception of the Newtonian Theory of Gravitation on the Continent

It had long been laid down as an incontrovertible dogma, *that a body cannot act where it is not*

When, therefore, the Newtonian doctrine of central forces was published, showing that the motions of the planets may all be accounted for by certain forces emanating from the sun and themselves, the opponents of the system maintained that it violated the fundamental dogma that a body cannot act where it is not. And several of the most eminent continental mathematicians, Leibniz, Huygens, the Bernouillis, and the French mathematicians who were all followers of the Cartesian vortices, long refused to receive the Newtonian Theory of Gravitation on that account

A similar difficulty is at the root of the unwillingness of the Economists and some modern writers to admit Labor and Credit to be Wealth

Many thousands of years ago a materialistic philosophy sprang up on the banks of the Ganges. Kapila is said to have been the author of the Sankhya Philosophy, and to have invented the dogma that *Nothing can come out of Nothing*, in order to disprove the existence of a Deity. This Philosophy migrated from the banks of the Ganges to those of the Ilissus and the Tiber: and is familiar to us under the names of Leucippus, Anaxagoras, Parmenides, Epicurus, Lucretius, and scores of others

The fundamental dogma of Lucretius, the hierophant of the materialistic philosophy, is that *No Thing can come out of Nothing*

"**Nullam Rem** e Nihilo gigni divinitus unquam"[1]

"*The Deity never yet made* **Any Thing** *out of* **Nothing**"

"**Nil** igitur fieri de **Nilo** posse fatendumst"[2]

"*It must therefore be allowed that* **Nothing** *can be created out of* **Nothing**"

Moreover, that **No Thing** can go back into **Nothing**

"Huc accedit uti quæque in sua Corpora rursum
Dissolvat Natura, neque ad **Nihilum** interimat **Res**"[3]

"*Hence it follows that Nature resolves all things into their own elements: and does not destroy* **Things** *into* **Nothing**"

"Nullius exitium patitur Natura videri"[4]

"*Nature does not suffer the annihilation of anything to be seen*"

"Immortali sunt Natura prædita certe
Haud igitur possunt ad Nilum quæque reverti"[5]

"*They are, therefore, endowed with an immortal nature. Therefore things cannot revert into* **Nothing**"

"Haud igitur redit ad **Nihilum Res ulla,** sed omnes
"Discidio redeunt in corpora materiai"[6]

"*Therefore,* **No Thing** *can go back into* **Nothing**: *but all when destroyed return into the elements of matter*"

"Haud igitur penitus pereunt quæcunque videntur
Quando alid ex alio reficit Natura, nec ullam
Rem gigni patitur, nisi morte adjutum alienâ"[7]

"*Therefore visible things do not altogether perish when Nature remakes one thing out of another, nor does she suffer any* **Thing** *to be produced unless aided by the destruction of another*"

And this is the constant refrain of the Lucretian Philosophy: that **No Thing** can be created out of **Nothing**: and that **No Thing** can go back into **Nothing**

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[1] *De Rerum Naturâ*, I., 151
[2] *Ibid.*, 205
[3] *Ibid.*, I., 216
[4] *Ibid.*, I., 224
[5] *Ibid.*, I., 236
[6] *Ibid.*, I., 248
[7] *Ibid.*, I., 262

"Nunc age **Res** quoniam docui non posse creari
De **Nihilo**, neque item genitas ad **Nil** revocari"[1]

"*Now, come, since I have taught that* **Things** *cannot be created out of* **Nothing**, *no more than when once produced can they be reduced into Nothing*"

"At quoniam supera docui **Nil** posse creari
De **Nihilo**, neque quod genitumst ad **Nil** revocari
Esse immortali Primordia corpore debent"[2]

"*But since I have taught above that* **Nothing** *can be created out of* **Nothing**: *and that what is once produced cannot be called back into* **Nothing**, *the elements must be endowed with immortal bodies*"

And this is the very doctrine that physicists maintain to the present day. Chemists delight to expatiate to their audiences on the indestructibility of all things. How seeming destruction is merely the dissolution of atoms under their present combinations: to re-appear in forms and new combinations in perpetual succession

The fallacy upon which the Lucretian Philosophy makes shipwreck, so far as regards Economics, is now evident. Lucretius throughout assumes that **Nulla Res** is the same as **Nihil**

Lucretius was a sublime poet, but he was not a Jurist. He had no idea of **Res** meaning anything but a material object, as it did in early Latin and Jurisprudence. He had no idea that the Jurists had extended Res to include both Labor and Credit. And thus the doctrine that *ex nihilo nihil fit* falls to the ground

### *On* Immaterial Quantities *as* Res *or* Wealth

**31.** II. But Economics and Law confound the best settled doctrines of the sages of Eld

It is true that many Economists have declared that man can create nothing, and that all Wealth comes from the earth. **But** Smith, Say, Senior, Mill, and all Economists of note now unanimously class Personal Qualities as Wealth : and Labor as a vendible Commodity

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[1] *De Rer. Nat.*, I., 265

[2] *Ibid.*, I., 543

All modern Economists of note are now agreed that the ancients were right in holding Exchangeability to be the sole essence and principle of Wealth : that whatever can be bought and sold, or exchanged: or whose value can be measured in money: is Wealth. Twenty-two centuries ago the author of the Eryxias irrefragably proved that **Knowledge is Wealth**

Knowledge, therefore, by the very generality of the definition, and by the consent of every Economist of note, is Wealth. And where does knowledge come from ? And what is it formed out of ? Does it come from the earth ? And is it formed out of the materials of the globe ? All that we know is that knowledge originates in the mind. Knowledge is formed *in* the mind: by great Labor very often. But is it formed *out of* the materials of the mind ? And if so, what is the Mind composed of ? Does it come from the earth ? And are we to have an atomic theory of the mind and of Knowledge ? Will some metaphysical Dalton revive the doctrine of Lucretius and the Stoics that Knowledge and the Human Mind are composed of indestructible primordial atoms ?

*πολλὰ τὰ δεινά, κοὐδὲν ἀνθρώπου δεινότερον πέλει*

But this same Knowledge—whence cometh it ? What is it ? Whither goeth it ?

We know not—do our readers ? Natheless, it is Wealth : and, therefore, it is within the domain of the Economist. It may be bought and sold : it may be valued in money : it is the product of Labor : it may be handed down from age to age : like any material chattel

The acquisition of Knowledge is the acquisition of Wealth : and the loss of Knowledge is the loss, or destruction, of Wealth. And is the loss or destruction of Knowledge the dissolution of indestructible primordial atoms ?

Here then we have vast masses of Wealth : and the question is—where does it come from ? And what is it composed of ? And there can be but two answers to the question. Either Knowledge is composed of indestructible primordial atoms, or it is not. If it be so, then the formation of Knowledge is not the creation of Wealth out of **Nothing.** But unless we are prepared to admit that—and who is ?—the formation of Knowledge must be the creation of Wealth out of **Nothing**: and the loss or destruction of Knowledge must be the **Decreation,** the **Annihilation,** or the return of **Wealth** into **Nothing**

Every one knows that Trade Secrets are a most valuable form of Wealth. As one example of this, out of thousands, we may take a case which was before the Scotch Courts some years ago. In the 17th century, a person named Anderson discovered a way of making pills, which soon became very popular. The secret of making these pills has been handed down from generation to generation, and has been a constant source of Wealth to the possessors of it. Some years ago the possessor of it became bankrupt, and his creditors claimed the right of having it given up to them, as part of the bankrupt's assets. The pills have been analysed in vain, and the secret of their composition has never been able to be discovered

Now here is a manifest case of a trade secret—Knowledge—being Wealth: and where did this Wealth, or Knowledge, come from ? And what is it composed of ? Did it come from the earth ? And is it composed of the materials of the globe ? And yet it has been handed down as an heirloom from age to age. If the owner of the secret died without divulging it, there would be a manifest loss of Wealth, and what would become of it in that case ? Would it be resolved into undying atoms ?

Now, Knowledge is Wealth—and Knowledge is a **Res.** And here we have enormous masses of **Res**—which are created out of **Nothing**—and if lost, may go back into **Nothing.** This is one example which entirely overthrows the doctrine of Lucretius and the Physical Philosophers, that **No Thing** can be created out of **Nothing**: and that **No Thing** can go back into **Nothing**

The doctrines of those Economists who maintain that all Wealth comes from the earth, and is formed out of the materials of the globe, are also overthrown: and who maintain that man can create **No Thing.** For here we have vast masses of Wealth which do not come from the earth: and are created by man

Hence it is evident that there is another source of Wealth besides the earth: namely, the **Human Mind**

### *On* Incorporeal Quantities *as* Res, *or* Wealth

**31.** III. But the third Order of Economic Quantities—Abstract Rights—do not originate in the Earth, nor yet in the Mind. And here again Lucretius is at fault. For he says that there is **No Thing** besides the **Void** which is separated from some *corpus*

" Omnis ut est igitur per se Natura duabus
" Consistit Rebus: nam **Corpora** sunt et **Inane** "[1]

" *Therefore all Nature as it exists, is constituted of two* **Things** : *for there are* **Corporeal** *Things and there is the* **Void** "

" Præterea nihil est quod possis dicere ab omni
Corpore sejunctum: secretumque esse ab **Inane**
Quod quasi tertia sit numero Natura reperta "[2]

" *Besides, there is Nothing which you could say is separated from any Body,—and distinct from the Void: which would, as it were, count as the discovery of third Nature* "

" Et facere et fungi sine **Corpore Nulla** potest **Res** "[3]
" *And* **No Thing** *can act and function without a* **Body** "

" Ergo præter **Inane** et **Corpora,** tertia per se
Nulla potest **Rerum** in numero Natura relinqui
Nec quæ sub sensus cadat ullo tempore nostros
Nec ratione animi quam quisquam possit apisci "[4]

*Therefore, besides the Void and Bodies no third Nature can be left to be counted among Things which can either be recognised by the senses, or which any one can grasp by the reason of his mind* "

From these lines it is clear that Lucretius did not apprehend the nature of Rights of action, Debts, Bills of Exchange, and other kinds of Incorporeal Property: or he would have found it necessary to modify this part of his Philosophy

Jurists of all nations unanimously class **Incorporeal Quantities,** or **Abstract Rights,** under the terms **Res,** *Pecunia*, *Bona*, *Merx* : *χρήματα, πράγματα, οἶκος, οὐσία, ἀγαθά, οὐσία ἀφάνης* : Goods : Chattels : Merchandise : Vendible Commodities : Incorporeal Things : Incorporeal Wealth

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[1] *De Rer. Nat.*, I., 419
[2] *Ibid.*, I., 430
[3] *Ibid.*, I., 443
[4] *Ibid.*, I., 445

If Lucretius had shown his poem before he published it, to his friend Cicero, he would have smiled. He would have taken a Bill of Exchange out of his desk, and said—"My friend Lucretius, you say that **No Thing** can exist separate from a Body, nor act nor function without a Body. Now my son is going to Athens to-morrow to attend his classes, and as it would not be safe for him to carry Money with him, I have got from my banker in the forum a Bill of Exchange on Athens. This Bill of Exchange is a simple Right of action—it is a **Res**—and yet it was created out of **Nothing** by my banker at my request. It is what we lawyers call a **Res Incorporalis,** which you maintain, cannot exist in the nature of things. When my son presents this bill to the banker at Athens, he will give him the sum for which it is payable. Therefore you see that it acts and functions without a body: and hence, my friend, your doctrine that there is no third Thing in nature besides Bodies and the Void: and that **No Thing** can act and function without a Body: requires reconsideration. If you will come to myself or to Hortensius, and have a little chat with us, we will explain to you that in our law, Abstract Rights of many different sorts are termed **Res Incorporales**: and that these Abstract Rights can be bought and sold, and transferred from one person to another with the utmost facility by word of mouth, without any Body. Thus, for example, if Titius is bound to pay Junius a sum of money, and Junius wishes to transfer that Debt, or Right, to Lucius, the three parties meet together. Junius transfers his Right to Lucius by word of mouth, and Titius agrees by word of mouth to pay Lucius: the Right or **Res**—is as effectually transferred as a piece of money would be by manual delivery. And in a similar manner this Debt—a **Res**—may be transferred any number of times in exchange for goods, and effect sales just like a piece of money. What then becomes of your doctrine that there can be no **Res** without a Body—and that a **Res** cannot act and function without a Body?

In the case of this Bill which I hold in my hand, there is no doubt a piece of paper, but you must not think that the piece of paper is the **Res**—it is the Right of action written down on the paper which is the **Res**: and this **Res** equally exists whether it is written down on paper or not. I had a wondrous dream last

**night**: methought that in distant ages, many centuries hence, men will have acquired such marvelous powers, that they will be able to stretch wires from the most distant parts of the earth to each other, and by some magical agency of a nature of which I cannot form the most vague idea, they will be able to send messages to the most distant countries as speedily as by a flash of lightning. How this is to be done is beyond me to conceive—unless peradventure men should succeed in taming the lightning to their will, and be able to compel it to do their bidding. Whether this vision will ever come true, is beyond our poor weak mortal powers to tell; it lies in the knees of the Gods. But should such an incredible thing ever come to pass, men will be able to send Orders for the payment of Money to the furthest corners of the earth in a single second, just as easily as they do now by Bills of Exchange

In such a case the **Res**, the Right of action, will be created out of **Nothing**: and when it is paid the **Res** will be extinguished: it will be **annihilated**: it will go back into the **Nothing** from whence it came. I seriously advise you, my friend, to take back that part of your poem, and expunge that part of it, or you will have all the lawyers in the forum laughing at you"

Now all these Abstract Rights are Wealth—they are **Res.** They are expressly termed **Res Incorporales** in Roman Law: Goods, Chattels, Incorporeal Chattels, Incorporeal Wealth in English Law. And what are they created out of? Do they come from the materials of the globe? And are they formed out of indestructible primordial atoms? When a Debt, or **Res**, is extinguished and annihilated, is it resolved into indestructible atoms to reappear in another form? What then becomes of the doctrine that **No Thing** can be created out of **Nothing**? And that **No Thing** can go back into **Nothing**?

As a matter of fact 99 per cent. of the commerce in this country is carried on by means of these Circulating Debts—Circulating **Res**. And these Incorporeal **Res** have exactly the same effect on prices, and produce exactly the same effects, as an equal amount of gold and silver. What then becomes of the doctrine that **No Thing** can act and function without a Body?

How is a Debt created ? By the mere consent of two **Minds.** By the mere *fiat* of the Human Will. When two persons have agreed to create a Debt—whence does it come ? Is it extracted from the materials of the globe ? No ! it is a valuable product, created out of the **Absolute Nothing** by the mere fiat of the **Human Will** : and when it is extinguished it is a valuable product **Decreated** into **Nothing**, by the mere fiat of the **Human Will**

Hence we now see that there is a third source of Wealth, besides the Earth and the Human Mind—namely the *Human Will*

And by far the larger portion of Economic Quantities in this country are of this order—and merely the creation of the Human Will

Thus, whereas Lucretius only recognised two species of *Res*—namely, Material Things, and the Void—there are in fact two other species—Knowledge, Labor, and Character, and Abstract Rights : and as both the last are now recognised as Wealth, all the supposed paradox of creating Wealth out of Nothing, which so puzzled the Economists, and still does many at the present day, vanishes

Credit in Economics is very much analogous to Gravity in Dynamics. Gravity is force pure and simple, dissociated from any material agency : and for some time some even eminent men felt a difficulty in believing in it for that reason. Now Credit is Exchangeability pure and simple, dissociated from Labor and Materiality : and, therefore, some persons even yet feel a difficulty in believing it to be Wealth. But Credit is Wealth in Economics, just as Gravity is Force in Dynamics

We now perceive the advantage of removing all notions of Labor and Materiality from the definition of Wealth : and adopting Exchangeability — or Purchasing Power — pure and simple, as the sole essence and principle of Wealth—and defining Wealth to be exclusively an **Exchangeable Right**

We now see the answer to the doctrine of the Economists that all Wealth must be material, and formed out of the materials of the globe: because **No Thing** can come out of **Nothing**

We say that we are not concerned with **Material** substances at all—but only with the **Rights** to them. Some philosophers deny the existence of a Deity: other philosophers deny the existence of matter: but no philosopher will ever have the hardihood to deny that men can **Create**—can **Sell** or **Exchange**—and can **Annihilate**—**Rights.** And we have now established that Wealth is nothing but **Exchangeable Rights**

### *On the distinction between* Rights *to* Specific Things : *or* Jura in Rem *or in* Re—*and* Rights *against* Persons: *or* Jura in Personam *or* ad Rem

**32.** We have now to notice a distinction between different kinds of Property, or Rights, of the most transcendant importance both in Jurisprudence and Economics

Property, or Rights, are of two sorts:—(1) The Property, or Rights, to some specific chattel: termed in Law a **Jus in Rem,** or **in Re**: without being related to any one else: this Right is termed in Roman Law *Dominium*, or *Proprietas*

When a person has such a Property, or such a sole or exclusive Right in any object of whatever nature, he can sell or transfer it to any one else. Money, cattle, timber, jewelry, and other material goods: labor and services: and a considerable number of Abstract Rights, but by no means all: are subject to this kind of Property

(2.) Property, or Rights, held in **Contract** or **Obligation:** that is, when a person has not the Right to any specific chattel: but only a Right against a **Person** to compel him to **pay** or **do** something. This **Right** is termed a **Credit** or a **Debt.** It is termed in Roman Law a **Jus in Personam**: or a **Jus ad rem** (*acquirendam*)

A simple example of this kind of Right is the Contract, or Obligation, of Debt. In this case the Creditor has no Right to any specific Money in the Debtor's possession: the Debtor's money is his own absolute property: but the Creditor has only a Right of action to compel the Debtor to pay him a sum of money, or to perform some service. And the Right of the Creditor against the Debtor exists whether the Debtor has any money to pay his Debt, or not

To this class of Rights belong all Instruments of Credit: such as Bank Notes, Cheques, Bills of Exchange, and all Securities for money: the Funds: Municipal and Corporate Obligations: Rents of all kinds: of houses, lands, copyrights, patents, pews, telegraph wires, mines: or Rents payable in services

The former class of Rights are called **Real** or **Corporeal** Rights: because they are always Rights to specific chattels

The latter are called **Personal** or **Incorporeal** Rights: because they are merely Abstract Rights against a Person: wholly severed from any specific chattels

Thus in Corporeal Property the Right and the specific *corpus* cannot be separated: they cannot be sold separately and independently: they must always go together: hence the Right and the *Corpus* form but **One** Property

But in Incorporeal Property the Right is absolutely severed from any specific *corpus*. This class of Rights may be bought and sold separately, and independently of any specific *corpus*: in all respects like Money. This class of Rights, therefore, and the money they may be paid in, form *Two* Properties, which may be bought and sold separately

And when this class of Rights is paid in money by the Debtor, it is always an Exchange: the Debtor exchanges the Money for the Right of action: and by so doing, the Right of action is extinguished and ceases to exist

But as the whole class of Rights to specific chattels: and the whole class of Rights against persons: can be bought and sold, or exchanged: and the value of each class of Rights can be measured in Money: they are, each of them, *Pecunia*, *Res*, *Bona*, *Merx*: *χρήματα*, *πράγματα*, *πλοῦτος*, *οὐσία*, *οἶκος*, *ἀγαθά*, &c.: Goods: Goods and Chattels: Chattels: Vendible Commodities: **Wealth.**

The want of knowledge of this vital principle has been the cause of an immense amount of misconception and error in Economics

Thus Mill, in his Preliminary Remarks, maintains that the Funds are not Wealth : because they resemble a Mortgage Deed : and though they may be Wealth to the Mortgagee : they are to be subtracted from the Property of the Mortgagor

Now this is a vital and most important error. The Funds and a Mortgage Deed belong to two distinct classes of Property

The Funds are *Jura in Personam:* they are mere abstract Rights to demand a series of payments from the State as a *Persona:* they are Incorporeal Property : and of the same nature as Bills of Exchange

But a Mortgage Deed is the Right to a specific thing, such as a piece of land, a house, or anything else. When a person mortgages his land or house, he actually *sells* the land, or house, to the mortgagee, who acquires the Legal Right to it. What the Mortgagee has, is the Right to have the land or house reconveyed or re-sold to him, when he pays off the loan. Thus a Mortgage Deed is *Jus in rem,* or *in re:* it is Corporeal Property

Thus the Funds are not a Mortgage Deed on the Property of the nation, as Mill and so many others contend : they are a charge on the *future income* of the nation : and the earnings of the industrial classes are as much pledged, and contribute to the payment of the Funds, exactly in the same way as the income of those who hold Real Property

The Funds are in fact a Bill of Exchange payable out of the income of the country, by instalments for ever

To compare the Funds to a Mortgage Deed is exactly the same error as to suppose that when a merchant has accepted a Bill of Exchange, he has thereby granted a mortgage on his lands or house

So also many writers seeing that certain Paper Documents, such as Bank Notes, Cheques, and Bills of Exchange : Bills of Lading and Dock Warrants : circulate in commerce, consider that they are of the same nature : and class them all under the denomination of Credit

This, however, is a most vital error. Bills of Lading and Dock Warrants are all Titles to specific goods, and cannot be separated from them. They form only one Property with the goods: and always travel along with them. They are all **Jura in rem, or in re**: or Corporeal Property. They are termed in Law **Documents of Title**

But Bank Notes, Cheques, Bills of Exchange, &c., are independent Property: and they are exchanged against goods—exactly like money. They circulate in commerce exactly like Money. They are **Credit**: and in Law they are termed **Valuable Securities**

We shall see afterwards, that many literary and mathematical writers have totally misconceived the nature and effects of Credit: because they have confounded the distinction between Bills of Exchange and Bills of Exchange and Bills of Lading

### *On the* Corruption *of* Juridical Terms *in* Popular Usage

**33.** It has been shown that many words which in archaic Jurisprudence, and classical Latin, mean Material Things in Juridical Latin, and in Modern Mercantile Law, mean abstract **Rights**

But by a reverse process, many words which in Jurisprudence really mean Rights, have been corrupted in popular usage to mean things

Thus it is pointed out in Roman Law that the words *Iter Actus*, and *Via*, do not, as is usually supposed, mean the material pathway or roadway: but the **Right of Way**

Nor is this distinction of slight consequence. Every one acquainted with the country districts of England knows that before they were brought into cultivation, there were innumerable pathways through the commons, to which the public had a prescriptive Right. When the common was brought under culture these pathways were religiously preserved, to the immense inconvenience of farmers, because they conceived that the public had a Right to the pathway itself. Consequently they were forced to turn the plough, or lift it over the pathway, every time they came to it, at a great expense of time and labor. One farmer, however, had the boldness to carry the furrows right through the pathway and bide the consequences. And the Court held that he was justified in so doing: because the public had no Right in the pathway itself: but only a Right of Way through the field

So *Aquæductus* does not mean the material channel in which the water flows: but the Right of drawing water over another person's grounds, to which the material channel is appurtenant

So *Aquæhaustus* is the **Right** of drawing water in another person's grounds

Thus *Iter*, *Actus*, *Via*, *Aquæductus*, *Aquæhaustus*, are not material things, but only Servitudes: or Abstract Rights

So *Dominium* originally meant **Absolute Ownership**: but in process of time it came to mean the extent of country over which this Dominion is exercised

So *Provincia* properly means certain powers of administration entrusted to an official; but in popular usage, it is applied to the extent of country over which this jurisdiction is exercised

This corruption of language has extensively prevailed in English, and a number of words which in Juridical language mean **Rights**, are in common parlance applied to **Things**

We have already pointed out how the meaning of the word Property has been corrupted in modern times in English

Thus also when a nobleman or gentleman is said to have a large **Estate**: it is popularly supposed that he has the Property in a large extent of land: and the Land is supposed to be his Estate

This however is a complete error: in the first place, as every jurist has pointed out, no private person can have any Absolute Property, or ownership, in land either in England or Scotland. He can only hold an Estate in Land

Absolute Property in Land is termed allodial. In the Roman Empire the owners of land held it in absolute Property, or Dominion, without any superior. And before the conquest this was the case in England and other countries. Wherever the Roman Law prevailed, the land was equally divided among a man's children, the same as his moveable goods. This was the origin of the small properties in France, which so many believe was introduced by the French Revolution. Whereas the fact is that it was inherited from the Roman Empire, and it applied to all *roturier* land. But all feudal land was taken out of its operation, and subjected to the law of primogeniture. What the French Revolution did was to re-establish the law of equal partition in regard to feudal land. The law of equal division also prevailed in England : and it is supposed that the multitudinous hedgerows, which in many parts of the country used to divide the land into so many minute patches, but which have greatly disappeared before the improvements in agriculture, were the consequences of this law

Feudal tenure had to a certain extent, been introduced into England before the Conquest. But at a great Council held at Sarum in 1086, the whole land of England was surrendered in absolute Property to the Crown, except Church Lands, and the county of Kent. William made a composition with the men of Kent to maintain their ancient customs : so that in Kent the land remains as formerly equally divisable among the children. This is called the custom, or law, of Gavelkind : but most of the land in Kent has been disgaveled by various Acts of Parliament

The Conqueror then being sole Absolute Proprietor of all the lands in England, except as above, granted out to his followers certain **Rights** of use and enjoyment, and these Rights' of use were termed **Estates**

But the persons to whom these Rights were granted were bound to render certain services in return : and they were never called owners, or Proprietors, but only **Tenants.** They were only permitted to enjoy the use and profits of these lands, on the express condition of rendering these services to the Crown, which if they failed to do, they were as strictly liable to forfeiture as a modern tenant, or farmer, is for non-payment of rent. And at first these Estates were neither alienable, nor transmissible by will, but were strictly life tenancies, which reverted to the Crown at the death of the tenant

Thus Littleton speaks of Tenants in fee simple : Tenants for life : Tenants for terms of years: Tenants at will : Tenants by copy : Tenants in common : joint Tenants : Tenants by grand serjeanty. And the Index, or Tabula, says :—" The first book is of Estates which men have in lands and tenements": and in page 1 he says—"For these words (his heirs) make the Estate of inheritance." So in Book III., c. 2—"Of Estates upon condition," he says "Estates which men have in lands and tenements upon condition are of two sorts," and so on in numerous other passages. Littleton would never have dreamt of applying the word Estate to the land itself

So Bacon says—"Property of lands by conveyance is first distributed into Estates for years, for life, in tail, and fee simple. These Estates are created by word, by writing, or by record"

An Estate is, therefore, always a Right inferior to that of Property: it in reality means a **Lease**: as Bacon says—"For Estates for years which are commonly called **Leases** for years. Such Interests, or Estates, in land were always given as the fee, or reward, for services rendered to the Crown." So Bacon also says—"The last and greatest Estate in lands is fee simple, and beyond this there is none of the former for lives, years, or entails, but beyond them is fee simple. For it is the greatest, last, and uttermost degree of Estates in Land"

The true meaning of Estate is therefore a **Lease** or **Right** to use a thing, derived from a higher power, for which some service is given: which is *feudal* property: and an Estate in fee simple means a perpetual Lease of lands and tenements: and is in strictness only applicable to land. But to call the Land itself an Estate is as gross a perversion of language as to call it a Lease

The true meaning of the word Estate is also shown in the *Tempest*, where Iris says—

> "A contract of true love to celebrate
> And some donation freely to *Estate*
> On the blessed lovers"

So, Ægeus in *Midsummer Night's Dream* says—

> "And all my Right of her
> I do **Estate** unto Demetrius"

So in *As You Like it*, Oliver says—

"All the revenue that was old Sir Oliver's will I *Estate* upon you"

So a person's Estate is anything whatever to which he has a Right, or Interest: whether it be lands, houses, jewelry, money, cattle, **Debts**, the funds, shares, copyrights, patents, or any other property whatever

**Farm**: another example is the word **Farm.** Most persons are accustomed to consider that a Farm is a piece of land: and that a good Farmer is a good agriculturist: and that to farm well means to till the land well. All this, however, is an error. The word **Farm** like Estate, means a **Lease.** It is called *Farm* from *Firmus*, fixed. Whenever a person takes a Lease of anything capable of yielding profits, and upon agreeing to pay a fixed sum, is allowed to appropriate all the remaining profits to himself, it is termed a **Farm.** Thus in many countries it used to be the custom to Farm the taxes. The words **Farm** and **Estate** therefore simply mean a **Lease**: and are in reality **Rights**

Thus Spenser, in describing the miserable state of Ireland in his day, says that one of the great evils was that—"The Lords of land and Freeholders did not there use to set out their lands *in Farme*, or for a term of years to their tenants"

**Tithes**: so Tithes are not the produce of the land, or flocks, or personal industries to which the parson has a Right: but the **Right** itself to demand the produce

**Rent**: so the word Rent does not mean the money, or produce, paid for the use of land, houses, and other things. Rent, or *reditus*, is the **Right** which the owner of such things has to demand compensation for their continuous use from the person to whom their use is granted. It is a mere Annuity, or Right to demand a series of payments for the continuous use of these things. Formerly the Right to receive interest for the use of money lent was also called Rent. On the Continent the Funds are still called *Rentes*

**Annuity**: so the word Annuity does not mean the sums of money periodically paid: but the Right to demand them: and is a Property quite separate from the money actually paid

**Funds**: this is a popular name for the **Rights** which persons have to receive payments from the State for money they have lent to it. This, however, is a mere popular name: the legal name is **Bank Annuities**

**Credit**, or **Debt**: so a Credit or a Debt is the **Right** which a person has to demand a sum of money from another person: and not the Money itself which is due

So a Fishery, Shootings, Turbary, Tolls, Ferries, &c., are not Rights to actual fish, game, turves, moneys: but the Rights to receive them

### *Definition of* Value

**34. Value**, as will be shown more fully in the next chapter, is an affection of the mind; or a desire to possess some external object

It is the **Value**, or the **Desire** of two persons, each to obtain some object which is the Property of the other, which produces an Exchange, or an act of commerce

Economic Quantities are, as we have seen, of three distinct orders, any one of which may be exchanged against any other

Now if at any time, the Proprietors of any two objects agree to exchange them, then each of the two Quantities is termed **The Value** of the other

Suppose that at any time one ounce of Gold will exchange for 18 ounces of Silver: then it is said that one ounce of Gold is *of the Value* of 18 ounces of Silver which is simply this equation—

1 oz. of Gold = 18 oz. Silver

Hence Value may be said to be the Sign of Equality between any two Economic Quantities

We have then this Definition—

**The Value** *of any Economic Quantity is any* **Other** *Economic Quantity for which it can be exchanged*

Hence any Economic Quantity has as many Values as other Economic Quantities it can be exchanged for: and of course if it can be exchanged for nothing, it has no Value

Value then by the definition requires two objects : just as Distance and a Ratio require two objects. A single object cannot have Value : any more than a single object can be Distant or Equal. If we are told that any object is Distant or Equal : we immediately ask Distant from what ? or equal to what ?

So if it be said that any object has Value we must ask— Value in what ?

It is also clear that as it is absurd to speak of a Quantity having Absolute, or Intrinsic, Distance or Equality : so it is equally absurd to speak of a Quantity having Absolute, or Intrinsic, Value

## *On* Money *and* Credit

**35.** I. In the early ages of the world there was no such thing as Money. When persons traded, they exchanged the products directly against each other : as is the custom at the present day with savage people

Thus in Iliad, vii., 468 we have—

"Νῆες δ'ἐκ Λήμνοιο παρέστασαν οἶνον ἄγουσαι"

. . . . . . . . . . . . .

"ἔνθεν ἄρ' οἰνίζοντο κάρη κομόωντες 'Αχαιοί,
ἄλλοι μὲν χαλκῷ, ἄλλοι δ'αἴθωνι σιδήρῳ,
ἄλλοι δὲ ῥινοῖς, ἄλλοι δ'αὐτῇσι βόεσσιν,
ἄλλοι δ'ἀνδραπόδεσσι"

"From Lemnos' isle a numerous fleet had come
Freighted with wine . . . . . . .
. . . . . . . . All the other Greeks
Hastened to purchase, some with brass and some
With gleaming iron : some with hides,
Cattle and slaves"

This exchange of products against products is termed **Barter.** And the inconveniences of this mode of trading are obvious. What haggling and bargaining it would require to determine how much leather should be given for how much wine ! how many oxen, or how many slaves !

In the Homeric poems there is not the faintest allusion to anything of the nature of Money. But even in those days it had been discovered that it would greatly facilitate commerce if the products to be exchanged were referred to some common measure of Value

There are several passages in the Iliad which show that while traffic had not advanced beyond Barter, such a standard of reference was used. We find that various things were frequently estimated as being worth so many oxen. Thus in Iliad, ii, 448, Pallas's Shield, the Ægis, had one hundred tassels, each of the value of one hundred oxen. In Iliad, vi., 231, Homer laughs at the folly of Glaucus, who exchanged his golden armour, worth one hundred oxen, for the bronze armour of Diomede, worth nine oxen. In Iliad xxiii, 703, Achilles offered as a prize to the winner in the funeral games in honor of Patroclus, a large tripod, which the Greeks valued among themselves at twelve oxen : and to the loser, a female slave, which they valued at four oxen

But it must be observed that these oxen did not pass from hand to hand like Money. The state of Barter continued : just as at the present day it is quite common to exchange goods according to their value in Money, without any actual Money being used

### *On the* Necessity *for* Money

**35.** II. The necessity for Money arises from a different cause. So long as the products exchanged were equal in value there would be no need for Money. If it could always happen that the exchanges of products, or services, were exactly equal there would be an end of the transaction

But it would often happen that when one person required some product, or service, from another person, that other person would not require an equal amount of product, or service, from him in return : or even perhaps none at all

If, then, such a transaction took place between persons with such an **Unequal** result, there would remain over a certain amount of product, or service, due from the one to the other

And this would constitute a **Debt** : that is to say, a Right, or Property, would be created in the person who had received the less amount of service, or product, to demand the Balance due at some future time. And at the same time a correlative **Duty** would be created in the person of the other, who had received the greater amount of product, or service, to pay, or render, the balance due when required

Now among all nations and persons who exchange, or traffic, with each other, this result must inevitably happen: persons want some product, or service, from others; while those others want either not so much, or even perhaps nothing at all, from them. And it is easy to imagine the inconveniences which would arise if persons could never get anything they wanted, unless the persons who could supply these wants, wanted something equal in value in return at the same time

In process of time all nations hit upon this plan: they fixed upon some material substance, which they agreed to make always exchangeable among themselves, to represent the amount of **Debt.**

That is if such an unequal exchange took place among persons, so leaving a balance due from one to another: the person who had received the greater amount of service, or product, gave a quantity of this Universally Exchangeable Merchandise to make up the balance: so that the person who had received the lesser amount of service, or product, might obtain an equivalent from some one else

Suppose a winedealer wants bread from a baker: but the baker wants either not so much wine, or even no wine at all, from the winedealer. The winedealer buys the bread from the baker, and gives him in exchange as much wine as he wants: and makes up the balance by giving him an amount of this Universally Exchangeable Merchandise, equivalent to the deficiency: and if the baker wants no wine at all, he gives him the full equivalent of the bread in this Merchandise

The baker wants perhaps meat, or shoes, but not wine. Having received this Universally Exchangeable Merchandise from the winedealer, he goes to the butcher, or the shoemaker, and obtains from them the equivalent of the bread he has sold to the winedealer. Hence the satisfaction that was due to him from the winedealer is paid by the butcher, or shoemaker

This Universally Exchangeable Merchandise is termed **Money**: and these considerations show its fundamental nature. Its function is to represent the **Debts** which arise from unequal exchanges among men : and to enable persons who have rendered any sort of services to others, and have received no equivalent from them, to preserve a record of these services : and of their **Rights** or **Title,** to obtain an equivalent product, or Service, from some one else, when they require it

*Aristotle, Bishop of Berkeley, the Economists, Adam Smith, Thornton, Bastiat, Mill, and Jurists have seen the true Nature of Money*

**35.** III. The true nature of **Money** is now apparent. It is simply a **Right,** or **Title,** to demand some Product or service from some one else

Now when a person accepts Money in exchange for products, or services rendered, he can neither eat it, nor drink it, nor clothe himself with it: nor is it any species of Economic satisfaction for the service he has done. He only agrees to accept it in exchange for the services he has rendered, because he believes, or has confidence, that he can purchase some satisfaction which he does require, at any time he pleases. **Money** is therefore what is termed **Credit**

A whole series of writers from the earliest times have perceived that the true Nature of **Money** is merely a Right or Title to acquire a satisfaction from some one else; *i.e.*, a **Credit**

Thus Aristotle says[1]—

"ὑπὲρ δὲ μελλούσης ἀλλαγῆς (εἰ νῦν μηδὲν δεῖται, ὅτι ἔσται ἐάν δεηθῇ) τὸ νόμισμα οἷον Ἐγγυητής ἐστιν ἡμῖν. δεῖ γὰρ τοῦτο φέροντι εἶναι λαβεῖν"

"*But with regard to a future Exchange (if we want nothing at present, that it may take place when we do want it) Money is as it were our* **Security.** *For it is necessary that he who brings it, should be able to get what he wants*"

So a London Merchant, F. Cradocke, in the time of the Commonwealth says—"Having now pointed out the inconvenience of these metals (Gold and Silver) in which the medium of commerce, or **Universal Credit,** hath formerly been placed . . . . .

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[1] *Nicomach, Eth., B. V.*

"Now that **Credit** is as good as **Money** will appear: it is to be observed that Money itself is nothing but a kind of **Security** which men receive upon parting with their commodities, as a ground of **Hope** or **Assurance,** that they shall be repaid in some other commodity: since no man would either sell or part with any for the best Money, but in hopes thereby to procure some other commodities or necessary"

So an old pamphleteer in 1710, saw the same truth. He says[1]—"Trade found itself unsufferably straightened and perplexed for want of a general specie of a complete intrinsic worth, as the medium to supply the **Defect of Exchanging,** and to make good the balance, where a nation or a market, or a merchant demands of another a greater quantity of goods than either the buyer hath goods to answer, or the seller hath occasion to take back"

So the great metaphysician, Bishop Berkeley, says in his *Querist*—

21. Whether the other things being given, as climate, soil, &c., the wealth be not proportioned to industry, and this to the circulation of **Credit**, be the **Credit** circulated by what **Tokens** or **Marks** whatever?

24. Whether the true idea of Money as such, be not altogether that of a **Ticket** or **Counter**?

25. Whether the terms crown, livre, pound sterling, are not to be considered as exponents, or denominations: and whether **Gold, Silver,** and **Paper,** are not **Tickets** and **Counters,** for reckoning, recording, and transferring such denominations?

35. Whether **Power** to command the Industry of others be not real **Wealth**? And whether **Money** be not in truth **Tickets** or **Tokens,** for recording and conveying such Power? and whether it be of consequence what material the Tickets are made of?

426. Whether all circulation be not alike a circulation of

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[1] *An Essay on Public Credit*, p. 25

**Credit,** whatsoever medium—**Metal** or **Paper**—is employed : and whether **Gold** be any more that **Credit** for so much Power ?

See also Queries 441, 449, 450, 459, 475, and many others

It is one of the special merits of the Economists that they clearly saw the true nature of Money. Among many others Baudeau, one of the most eminent of them, says[1]—"This coined Money in circulation, is nothing, as I have said elsewhere, but effective **Titles** on the general mass of useful and agreeable enjoyments, which cause the well being and propagation of the human race "

"It is a kind of **Bill of Exchange,** or **Order,** payable at the will of the bearer "

"Instead of taking his share in kind of all matters of subsistence, and all raw produce annually growing, the sovereign demands it in **Money,** the effective Titles, the Order, the Bill of Exchange, &c."

So Edmund Burke[2] speaks of Gold and Silver as—" The two great recognised **Species** that represent the lasting **Credit** of mankind "

So Smith says[3]—" A **Guinea** may be considered as a **Bill** for a certain quantity of necessaries and conveniences upon all the tradesmen in the neighbourhood "

So Henry Thornton, the eminent banker, one of the authors of the Bullion Report, says[4]—" **Money** of every kind is an **Order for goods.** It is so considered by the laborer when he receives it, and it is almost instantly turned into money's worth. It is merely the Instrument by which the purchaseable stock of the country is distributed with convenience and advantage among the several members of the community "

This great fundamental truth was also very clearly seen by

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[1] *Introduction à la Philosophie Economique*

[2] *Reflections on the French Revolution*

[3] *Wealth of Nations*, Bk. II., c. 2

[4] *An Enquiry into the Nature and Effects of the Paper Credit of Great Britain*, p. 80

Bastiat. He says[1]—"You have a crown piece. What does it mean in your hands? It is, as it were, the witness and the proof, that you have at some time done work, which, instead of profiting by, you have allowed society to enjoy, in the person of your client. This crown piece witnesses that you have rendered a service to society, and, moreover, it states the value of it. It witnesses besides, that you have not received back from society a real equivalent service, as was your Right. To put it into your power to exercise this Right, when and where you please, society, by the hands of your client, has given you an *Acknowledgment* or **Title**, an **Order of the State**, or **Token**, a crown piece in short which does not differ from **Titles** of **Credit**, except that it carries its Value in itself (?), and if you can read with the eyes of the mind, the inscription it bears, you can see distinctly these words—"*Pay to the bearer a service equivalent to that which he has rendered to society, Value received and stated, proved and measured by that which is on me*"

"After that you cede your crown piece to me. Either it is a present, or it is in exchange for something else, if you give it to me as the price of a service. See what follows: your account as regards the real satisfaction with society is satisfied, balanced, closed. You rendered it a service for a crown piece, you now restore it the crown piece in exchange for a service: so far as regards you, the account is settled. But I am now just in the position you were in before. It is I, now, who have done a service to society in your person. It is I who am the creditor for the value of the work which I have done for you, and which I could devote to myself. It is into my hands now that this **Title of Credit** should pass, the witness and the proof of this social **Debt**, you cannot say that I am the richer, because if I have to receive something, it is because I have given something"

So again he says[2]—"It is enough for a man to have rendered services, and so to have the Right to draw upon society by the means of exchange for equivalent services. That which I call the means of Exchange, is Money, Bills of Exchange, Bank

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[1] *Œuvres*, Vol. II., *Maudit Argent*, p. 80

[2] *Harmonies Economiques*, *Capital*, p. 209

Notes, and also Bankers. Whoever has rendered a service, and has not received an equal satisfaction, is the Bearer of a Warrant either possessed of value, like Money, or of Credit like Bank Notes, which gives him the Right to draw from society, when he likes, and under what form he will, an equivalent service"

So again he says[1]—"I take the case of a private student. What is he doing at Paris? How does he live there? It cannot be denied that society places at his disposal, food, clothing, lodging, amusements, books, means of instruction, a multitude of things, in short, of which the production would demand a long time to be explained and still more to be effected. And in return for all these things, which have required so much labor, toil, fatigue, physical and intellectual efforts, so many transports, inventions, commercial operations, what services has the student rendered to society? None! he is only preparing to render some. Why then have these millions of men who have performed actual services, effectual and productive, abandoned to him their fruits?

"This is the explanation—The father of this student who was an advocate, a physician, or a merchant, had formerly rendered services—it may be to the people of China—and had received, not direct services, but **Rights** to demand services, at the time, in the place, and under the form, which might suit him the best. It is for these distant and anterior services that society is paying to-day: and wonderful it is! If we follow in thought the infinite course of operations which must have taken place to attain this result, we shall see that every one must have been remunerated for his pains: and that these **Rights** have passed from hand to hand, sometimes in small portions, sometimes combined, until in the consumption of this student the whole has been balanced. Is not this a strange phenomenon?

"We should shut our eyes to the light if we refused to acknowledge that society cannot present such complicated transactions, in which the civil and penal laws have so little part, without obeying a wonderfully ingenious mechanism. *This* **Mechanism** *is the object of* **Political Economy**"

[1] *Harmonies Economiques, Organisation Naturelle*, p. 25

So Mill says—"The Pounds, or Shillings which a person receives, weekly or yearly, are not what constitutes his income: they are a sort of **Ticket**, or **Order**, which he can present for payment at any shop he pleases, and which entitles him to receive a certain Value of any commodity that he makes choice of. The farmer pays his laborers and his landlord in these Tickets, as the most convenient plan for himself and them"

It is so clearly understood that Money is, in reality, nothing more than the **Right** or **Title** to demand something to be paid or done, that some Jurists expressly class it under the Title of Incorporeal Property

Thus Vulteius says—

"Nummus in quo non Materia ipsa, sed Valor attenditur"

"*Money, in which not the Material, but the Value is regarded*"

That is we desire or demand other things for the direct satisfaction they give us: but we only desire money as the **Means** of purchasing other things

**Gold** and **Silver Money,** therefore, may be justly termed **Metallic Credit**

Thus it is seen that writers of all classes, Philosophers, Merchants, Bankers, Economists, and Jurists, are all perfectly agreed upon the nature of money. It represents **Indebtedness**: or Services due to the owner of it: and it represents the **Right** or **Title,** which its owner has to demand some product, or service, in recompense for some service he has done for some one else

### *On* Credit

**35.** IV. So long as nations continue in a low state of civilisation, all the Money, or Credit, is made of some material substance. But when they advance in civilisation they make use of Credit of another form

To revert to the case from which we showed that the necessity for money arose out of Unequal Exchanges among men. Suppose that if instead of the General Merchandise called Money, by which the Creditor can obtain a satisfaction from some one else, the Debtor simply gives a **Promise** that he himself will render the balance due when required. Then the Creditor has also the Right to demand an equivalent at a future time, *but only from his own Debtor*

Suppose that a person holds a tea merchant's Promise to deliver a chest of tea when required: and the tea merchant is able to deliver the tea when required: it is evident that the Promise is exactly equivalent to so much Money, in that particular case

Now that Promise is only the Right to demand a particular commodity from a particular person. And that person may die or become bankrupt: and be unable to fulfil his promise. Hence the Promise is both *Particular* and *Precarious.* But so long as the tea merchant is able to deliver the tea when required, the Promise is of the Value of the tea: and to any one who wants tea, the Promise is of the same Value as Money in that particular instance

This **Order** or **Promise,** or **Right,** is what is usually termed **Credit**: and though it is of a lower and inferior form, it is clearly seen that it is of the same general nature as Money

Moreover, this Right may be bought and sold, or exchanged, exactly like Money

Suppose that a second person had performed services to a wine merchant: and as before, had received a Promise from him to deliver a certain quantity of wine: then of course his promise to pay so much wine would be of the Value of that quantity of wine.

Suppose, then, that the person who held the Promise to pay tea, did not happen to want tea; it is quite clear that his Promise to pay tea would not avail to procure him wine. Also suppose that the person who held the Promise to pay the wine, did not happen to want wine: but did happen to want tea: then his order to pay wine would not procure him the tea

But suppose that these two persons happened to meet, and made known their respective wants to each other, they might agree to exchange their respective Orders, according to the relative Value of the tea and the wine. And then each person would be able to obtain the satisfaction he required

The same also is true with respect to every other Promise to pay any other product. An order for a shilling's worth of bread or of milk is exactly of the Value of a shilling in these particular cases: and so on in regard to an Order for any other product in succession. The only difference is that each Order has only one particular Value: while with a shilling, he can get **Any** of the products he may require. Thus, while each Order has only one Value, a shilling has a multitude of Values, or a general Value, and can purchase any one of them

But these Orders are so many circulating **Credits** or **Debts**: and they may be interchanged among their respective holders in any way they please. So that a person who holds several Orders for one thing only, may exchange them against Orders for as many other things as he may require

Now as in Economics we are in no way concerned with the materials of things: nor with the purposes for which they are useful: but simply and solely with their Quality of **Exchangeability**: or their capacity of being bought and sold, or exchanged: and as these Orders may all be bought and sold exactly like any material chattels: they are termed *Pecunia*, *Bona*, *Res*, *Merx* in Roman Law: *χρήματα*, *πράγματα*, *πλοῦτος*, *οὐσία*, *οἶκος*, *ἀγαθά*, &c., in Greek Law: Goods, Chattels, Vendible Commodities, Merchandise, Incorporeal Chattels, Incorporeal Wealth in English Law: and therefore, **Wealth** in Economics

From this it is seen that, though highly inconvenient, it would be perfectly possible to carry on the exchanges of society without actual material money. During the great civil war in the United States, gold and silver Money entirely disappeared from circulation: and private Tickets, or Orders, of the nature described above, took its place. Instead of metallic money, people had their pockets filled with bread tickets, milk tickets, rail-road tickets, and many others. If a man had his hair cut and tendered a dollar in payment, he could not get the change in Money: but the hairdresser gave him so many tickets, promising to cut his hair so many times. We saw one case in an American paper in which payment was made in Tickets, or Bills, promising to pay in strawberries, when the season came on

It is so usual in this country to make Credits payable in Money only, that it is sometimes supposed that Credits can only be made payable in Money. But in the south of Europe it is quite usual to make Bills payable in the products of the earth, such as oil, currants, &c.

This seemed so novel a doctrine, that we shall find hereafter that Lord Cranworth, when Chancellor, asserted that a Bill payable in iron was not legal

### *On* Substances *used as* Money

**36.** The necessity for Money has arisen among all nations, the most barbarous as well as the most civilised. As soon as the members of any community, however barbarous, begin to exchange among themselves, Unequal Exchanges must necessarily arise: and therefore **Indebtedness** is created. And some substance is hit upon to represent these services due: and the **Rights** which its holders have, to demand some product, or service, in satisfaction of the services they have done to some one else

A great many different substances have been used by different nations to represent this universal want. The Hebrews, we know, used Silver. No money was in use in the times of the Homeric poems: but some time after them, though we cannot say when, copper bars, or skewers, were used as Money throughout Greece: which Pheidon of Argos, in the eighth century, B.C., superseded by silver coins. The Æthiopians used carved pebbles: the Carthaginians used leather discs, with some mysterious substance sewn up in them. Throughout the islands of the Eastern Ocean, and in many parts of Africa, shells are still used. In Thibet and some parts of China little blocks of compressed tea are used as Money. In the last century, dried cod was used in Newfoundland: sugar in the West Indies: tobacco in Virginia. Smith says that, in his day, nails were used as Money, in a village in Scotland. In some of the American colonies powder and shot: in Campeachy, logwood: and among the North

American Indians belts of wampum were used as Money. We read of another people who used cowries as small change: and the skulls of their enemies for large sums. It is said that in Virginia, in 1867, the proprietors were reduced to such straits as to use dried squirrel skins as Money, and many other things have been used in various countries for the same purpose

But when we consider the purposes for which Money is required, it is easily seen that no substance possesses so many advantages as a Metal. The use of Money being to preserve the record of services due to its possessor for any future time, it is clear that Money should not alter by time. A Money of dried cod would not keep very long, nor would it be easily divisible. Not many bankers would care to keep their accounts in dried cod, tobacco, sugar, logwood, or dead men's skulls

One of the first requisites of Money is that it should be easily divisible into very small fragments: so that its owner should be able to get any amount of service he pleases at any time. Taking these requisites into consideration, it is evident that there is no substance which combines them so well as a metal. Metal is uniform in its texture: it can be divided into any number of fragments, each of which shall be equal in value to any other fragment of the same weight: and if required, these fragments can always be reunited, and form a whole again, of the value of all its parts: which can be said of no other substance

All civilised nations, therefore, have adopted Metal as Money: and of Metals Gold, Silver, and Copper, have been chiefly preferred

### *The Chinese invented* Paper Money

**37.** We have now to treat of a Material used as Money, which in latter times at least, has had incomparably more influence in the World than all the gold and silver: namely **Paper**

The Romans invented the business, which in modern language is termed Banking. The Roman bankers invented Cheques and Bills of Exchange: but they did not invent Bank Notes. The use of Cheques and Bills of Exchange by the Romans was extremely narrow: restricted to the immediate parties: and they were never made transferable, as far as we are aware, so as to get into general circulation and serve the purposes of Money

The invention of **Paper** to be used as circulating Money is due to the Chinese

In the beginning of the reign of Hiantsong of the Dynasty of Thang, about the year 807 A.D. there was a great scarcity in the country. The Emperor ordered all the merchants and rich persons to bring their money into the public treasury, and, in exchange for it, gave them Notes, called *fey-thsian*, or flying money. In three years, however, this Money was suppressed in the capital, and was current only in the provinces. In 906 A.D. Thait-siu, the founder of the Soung Dynasty, revived this practice. Merchants were allowed to deposit their cash in the public treasuries, and received in return Notes called *pian-thsian*, or current Money. The convenience of this was so great, that the custom quickly spread, and in 997, there was paper in circulation to the amount of 1,700,000 ounces of silver, and in 1021 it had increased to 2,830,000 ounces. At this period a company of sixteen of the richest Merchants were permitted to issue Notes payable in three years. But at the end of that time the company was bankrupt, which gave rise to much public distress and litigation. The Emperor abolished the Notes of this company, and forbade any more joint stock Banks to be founded. Henceforth the power of issuing Notes was kept in the hands of the Government. These Notes were also called *kiao-tsu*, and were of the value of an ounce of silver. In 1032 there were *kiao-tsu* to the value of 1,256,340 ounces in circulation. Subsequently banks of this nature were set up in each province, and the Notes issued by one provincial Bank had no currency in any other. These were the first Bank Notes on record—that is to say, Notes issued in exchange for money, or convertible into money: and not Paper Money or paper created without any previous deposit of specie. Besides these Bank Notes, the Chinese issued Paper Money to a vast amount[1]

It would be too long here to give a complete history of the

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[1] *Klaproth, Journal Asiatique*, Vol. I., p. 256

Paper Money of China: but we have given some full notices of it elsewhere.[1] But it may interest our readers to know the process of its manufacture

About 1288, Marco Polo travelled in China, and discovered the existence of this Paper Money. In Book II., c. 18, he gives an account of its manufacture. He says that it was made in Kambalu. The inner rind of the mulberry tree was steeped and pounded in a mortar, and then made into paper, resembling that made from cotton, but quite black. It was then cut into pieces nearly square, but of different sizes. The smallest were of the value of a denier tournois: the next for a Venetian groat: others for two, five, and ten groats: others, one to ten gold besants. Several officers had to subscribe their names and place their seals on each Note, which was then stamped with the royal seal dipped in vermilion. Counterfeiting was a capital offence. It had then a forced currency, and no one dared to refuse it on pain of death. Caravans of merchants arrived with their goods, which they laid before the king, who selected what he pleased, and paid them in this money. When any one wished to exchange old money for new, it was done at the mint, at a charge of three per cent. If any one wanted gold or silver for manufacture, they could obtain bullion at the mint in exchange for the paper. Marco Polo mentions many cities where he observed this money in circulation.

Credit and Paper, either payable in specie, or inconvertible, now forms the great Circulating Medium, or Currency, of the world, and as we shall show hereafter, amounts to nearly one hundred times the quantity of specie, in this country

## Credits *payable in* Services

**38.** In every Obligation, or Contract, the party who has the Right to enforce the performance of the Duty is the **Creditor**: and the party whose Duty to perform it is the **Debtor**

The words of the Digest are General. A **Credit** is the **Right** to compel a person to **Pay** or **Do** something. Hence large amounts of Credit are payable, not in any material substance, Money or any other: but in **Personal Services**

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[1] *Dictionary of Political Economy*, Act Currency, p. 666

Thus in feudal times Rents were payable not only in Money, and in products of the earth, termed Rents in kind : but also in Personal Services : and such Rents were termed Rent Services

And the person who has the Right to demand a service is as much a Creditor as the one who has the Right to demand a material product: and the person who is bound to render a service is as much a Debtor as the one who is bound to pay a material substance

A jaded legislator has taken shootings in the Highlands. On the 10th of August he goes to the Railway office and pays five guineas : in exchange he receives a ticket for Inverness. That **ticket** is a **Credit** : it is a Bill payable in a Railway journey to Inverness

In exchange for Money the Post Office issues Postage Stamps. These Stamps are Credit. They are Bills payable in the carriage of a letter

A Fellow of the Zoological Society, in exchange for his subscription receives an ivory. That ivory is a **Credit.** It is a Bill payable in admission to the gardens

A person wishes to see Irving, in Hamlet. He has perhaps to buy a ticket a fortnight in advance. That ticket is a **Credit.** It is a Bill payable in seeing Irving in Hamlet

A College engages one of its members at a quarterly salary to give lectures to its students. The lecturer gives his lectures, and thus acquires a Right to demand his salary from the College. **This Right of Action** is the **Credit** or the **Debt**

A member of the University gives lessons to private students. The fee is paid either in advance, or after the lessons are given. If the fee is paid in advance, the student acquires a Right of action, a **Credit** or **Debt,** against his tutor to demand so much instruction. If the lessons are given first, the tutor acquires a Right of action, a **Credit,** or a **Debt** to demand payment for his lessons

The master of a household engages servants, and agrees to pay them wages monthly, or quarterly, as the case may be. When the servants have performed these terms of service, they have a Right of action against their master for their wages. This Right of action is a **Credit** or a **Debt**

So officials of all kinds at the end of certain terms of service acquire a Right to be paid for their services. These Rights are **Credits** or **Debts**

Hence Credit can purchase services exactly in the same way as Money: it is a Purchasing Power which can effect any result that Money can

### *The* Function *of* Credit *is to bring into Commerce the* Present Values *of* Future Profits

**39.** The true function of Credit is now apparent

It is a very common idea that Credit is the "*goods*" which are "lent:" or the "*transfer*" of them

Such ideas are wholly erroneous. In all cases whatever, a **Credit** is the **Present Right** to a **Future Payment**

*And the true function of Credit is to bring into Commerce the* **Present Values** *of* **Future Profits**

When an estate in land is sold the Present Value of all its Future Profits is expressed, and brought into Commerce by the Money paid for it

The total amount of the Shares in any Commercial Company, banking, insurance, railway, or any other, denotes the value of the existing property of the Company, together with the total **Present Value** of their **Future Profits**

So the Money paid for the goodwill of a business, a copyright, patent, a professional practice, &c., is the Present Value of the Future Profits

So when a merchant or trader trades on "Credit" he brings into Commerce the Present Value of a Future Profit. He buys the goods or the labor, and gives as their Price the Right to demand a sum to be paid out of the expected future profits

So when the State contracts a loan for any public purpose it buys the Money, and gives as its price the Right to demand a series of payments out of the future income of the people

So when municipal corporations and other public bodies contract loans for public purposes, they buy money by giving as its Price the Right to demand a series of payments out of the future revenues of their constituents. That is, they bring into Commerce the Present Value of their Future income

So Credit in all its forms, and to whatever purpose it is applied, simply brings into Commerce the Present Value of a Future Profit

The famous French wit, Rivarol, well said—"Man conquers space by commerce, and Time by **Credit**"

### *The* **Fundamental Concept** *of* **Monetary Science**

**40.** The preceding considerations now enable us to perceive the **Fundamental Concept** of Monetary Science

We have seen that writers of all classes are agreed as to the fundamental nature of Money. It represents **Debts** which are due to persons who have done services to others, and have received no equivalent services in return. It merely represents the Right to demand these equivalent services when they please: and its special function is to measure, record, and preserve these Rights for future use; and to transfer them to any one else

If all the services exchanged in society exactly balanced, there would be no need for money

Supposing, then, that there was nothing but Metallic Money in use, the following axiom is evident—

"*The* **Quantity** *of* **Money** *in any country represents the* **Quantity** *of* **Debt** *which there would be, if there were no* **Money**"

But as we have seen that in civilised countries these **Debts**, or **Rights**, are recorded in the simple form of Rights against particular persons, whether written and unwritten, as well as in Metallic Coin, which are rights against the general community, the terms Circulating Medium, or Currency, include these Debts in both forms

Hence it is clear that the Circulating Medium, or Currency, represents nothing but Transferable Debt: and that whatever represents Transferable Debt is Circulating Medium, or Currency, whatever its nature or form may be, either Metal, or Paper, or anything else

Consequently this proposition necessarily follows—

"*Where there is no* **Debt** *there can be no* **Currency**"

All erroneous theories of Currency have been founded on not perceiving the fundamental nature of Currency: and the greatest monetary disasters the world has ever seen, have been produced by violating this fundamental axiom

### *On the* Distinction *between* Money *and* Credit

**41.** It has now been shown that **Money** and **Credit** are essentially of the same nature: Money being only the highest and most general form of Credit. They are each a Right, or Title, to demand some product or service in future

Nevertheless, there is a very important distinction between Money and Credit, which must now be pointed out

In Economics all Money is Credit: but all Credit is not Money

No one can compel any one else to sell him anything for Money, or Credit. When, therefore, any one has taken Money in exchange for anything, it is in reality only Credit: because he only takes it in the belief that he can exchange it away for something else

But suppose that a sale has taken place: and that a Debt has been incurred thereby: public policy requires that the Debtor should be able to compel the Creditor to accept something in discharge of his Debt. It would cause infinite misery if Creditors could arbitrarily refuse anything they pleased in payment of their Debts. Hence in all countries the Law declares that *if a Debt has been incurred,* the Debtor can compel the Creditor to accept some specific thing in payment of it

Whatever that **Something** is which a Debtor can compel a Creditor to accept in payment of a Debt which has been incurred, is **Money**, or **Legal Tender**

From this it follows that some things may be Money in some cases, and not in others

Gold Coin in this country is Money, or Legal Tender, in all cases, and to any extent

Silver is only Money, or Legal Tender, to the amount of 40*s*. If a Creditor chooses to accept of payment of a larger amount than 40*s*. in silver, it is entirely of his own free will

In England, as between the public and the Bank of England, Bank Notes are nothing but Credit. The Bank cannot compel any one to receive its Notes: and any holder of its Notes can compel the Bank to cash them on demand

Between private persons a Bank Note for £5 is not Money, or Legal Tender, for that exact amount of Debt. But in Debts above £5, Bank Notes are Money, or Legal Tender. But even this is only so long as the Bank pays its Notes in cash on demand. If the Bank were to stop payment, its Notes would cease to be Legal Tender in any case

In Scotland and Ireland, Bank of England Notes are not Legal Tender in any case

If two persons are mutually indebted to each other in equal amounts at the same time, each may compel the other to accept the Debt he owes, as Legal Tender for the Debt which is due to him. Each Debt is therefore Money, or Legal Tender, in respect of the other: and neither party can demand specie from the other.

So if a Creditor voluntarily accepts payment from his Debtor in a country bank note without indorsement, he makes it Money even though the Bank should fail: or if he voluntarily accepts a Cheque from his Debtor, and has the Credit transferred to his own account: he makes it Money: and it is a final closing of the transaction: even though the Bank should fail immediately after.

This is a principle of supreme importance in modern commerce, as will be shown more fully hereafter

### Reason *why* Paper *can supersede* Money

**42.** The reason why Paper can supersede Money is now apparent

An order to receive a coat could never serve as a substitute for a coat: because it cannot serve the same purpose as a coat. An order to receive meat, or bread, or wine, cannot supersede meat, bread, or wine: because it cannot serve the same purpose as meat, bread, or wine: and so on regarding orders for other material chattels. An order for such things can never serve as a substitute for the things themselves: because they are heterogeneous quantities, of a totally different nature: and cannot serve the same purpose as the things themselves

But an Order to pay Money can serve the same purpose as Money: because they are homogeneous quantities. A piece of Money, like a piece of Paper, is nothing more than an **Order** to receive a useful material chattel: and provided that the Order is sure to be obeyed on demand, it is of no consequence whether it be of Metal or Paper

Consequently the Exchange of Paper for Money is nothing more than Exchange of a particular Right for a general Right

As Daniel Webster, the eminent American jurist, said—"Credit is to Money what Money is to goods." That is Credit is an Order for Money, and Money is an Order for goods

To be useful Money must be exchanged away for other things, just as Paper is. And if Paper can be exchanged away for exactly the same things that Money can, Paper has exactly the same Value as Money. As the Italians say—"Che oro vale, oro è"—"That which is of the Value of Gold is Gold"

### *The same* **Quantity** *may require to be regarded in different* **Aspects** *in different* **Sciences**

**43.** We have now a most important observation to make. The same Quantities may be common to different sciences, and require to be regarded in different aspects in each

Thus Jurisprudence and Economics are inseparably allied: and Money and Bank Notes, Bills of Exchange and Abstract Rights, are both Juridical and Economical Quantities: but they differ in some respects according as they are regarded in a Juridical or an Economical aspect

Thus in Jurisprudence Money is the absolute payment and satisfaction of a Debt: and a closing of the transaction: and Bills of Exchange are not the closing of the transaction, unless they are accepted as such

Also in Jurisprudence Money is Corporeal Property: abstract Rights and Rights of action are Incorporeal Property: but if these Rights and Rights of action are recorded on paper, parchment, or any other material, they become Corporeal, or Material, Property: just like Money

But in Economics a payment in Money is not the closing of the transaction. The Economists held that a complete Exchange is the obtaining a satisfaction for a satisfaction. In Economics Money is only an abstract Right recorded and preserved in gold to obtain a satisfaction. Money in Economics is only a Bill of Exchange in Gold. So in Economics, Rights, whether purely abstract or recorded on paper, are exactly of the same nature. A piece of Money is no more an Economic satisfaction than a piece of Paper

Hence in Economics Money and Rights of action, whether written or unwritten, are of exactly the same nature. They are all simply Rights to demand something in future: hence, as many Jurists have seen, they are all, in Economics, equally **Incorporeal Property,** or **Credit**

But as they all possess the Quality of Exchangeability, they are all equally **Wealth**

### *There is no* Necessary Relation *between the* Quantity of Money *in any country, and the* Quantity of Commodities *and their* Price

**44.** We have now to demonstrate a proposition of the greatest importance in Economics, and on which errors of the most serious nature are very prevalent

Many writers on Economics have supposed that the quantity of Money in a country bears some **necessary** relation to the quantity of commodities in it: and many more think that the prices of commodities are determined by the ratio which the quantity of Metallic Money bears to the quantity of commodities. That this is a very serious error may easily be shown

Suppose that A and B are mutually indebted: that A owes B £10: and B owes A £13. Then it is quite clear that their Debts may be settled in three different ways—

1. Each may send a clerk to demand payment of his debt from the other in money: this method would require £23 in money to discharge the two debts

2. A may send £10 to B to discharge his debt : and B may send back to A the same £10 with £3 additional to discharge his debt : this method would require £13 to discharge the two debts

3. They may meet together, and set off their mutual amounts of debt, and pay only the difference in Money : by this means the two debts would be discharged by the use only of £3

Now it is quite clear that a very different quantity of Money would be required to carry on any given amount of business, according as either of these methods of settling debts was adopted. Between the first and the third methods there is a difference of £20. These £20 would not influence prices, but would only be required to settle debts in a clumsy way. So that it is clear that by a simple change in the method of doing business £20 might be withdrawn from its employment : and set free to be applied to new transactions

The adoption of the third method of settling debts in the place of the first, would in no way affect prices, because these amounts of Money would have to be retained for the sole purpose of settling debts, and would in no way enter into the sales of commodities, and therefore in no way affect their prices. At the same time it would greatly alter the ratio between Money and commodities

Now when these transactions are multiplied by millions, it is evident that there may be large quantities of money in a country which may exercise no influence on prices : and the ratio between Money and commodities may vary greatly, according as one or other of these methods of doing business is adopted

Now if a country which habitually used the first method were to change its custom, and adopt the third method, it is very evident that a very large quantity of Money might be disengaged from its usual employment, and applied to promote new operations : and, therefore, for all practical purposes, it would be equivalent to an addition to the previously existing quantity of Money : as by this improvement in the method of settling debts, many times the same quantity of business might be done on the same basis of specie. Hence the various methods of economising the use of Money are, for all practical purposes, to be considered as an increase of the resources of the nation

But the methods of proving this proposition are by no means exhausted. I was examined as a witness before the Gold and Silver Commission of 1887, and I somewhat startled the Commission by saying that though every system of Credit must rest on a basis of Specie, there is no *necessary* relation between the basis of specie and the superstructure of Credit raised upon it

The proof of this is extremely simple, and may be best illustrated by a practical example

Before bankers discounted Bills of Exchange, there used to be fairs at the great continental cities, Lyons, Nuremberg, and many others, held every three months. Merchants in France and other countries did not make their Bills payable at their own houses, where they must have kept large sums in specie to meet them, but they made them payable only at these great fairs. In the meantime their Bills circulated throughout the whole country, and performed all the functions of Money. On a fixed day of the fair, the merchants met together, and exchanged their acceptances against each other. By the principle of **Compensation**, which will be more fully described in a future chapter, these acceptances exchanged, reciprocally paid, discharged, and extinguished each other. Boisguillebert, the morning star of French Economics, says, that at the fair of Lyons, 80,000,000 of Bills paid and discharged each other, without the use of a single coin. Hence, when all Debts balance each other, they may all be settled without the use of a single coin. Now this is equally true whether there were 80, or 800, or 8,000 millions of Debts to be settled. Hence, it is evident that so long as the Debts to be settled exactly balance, there is no use for any Money, however large they may be in actual amount. In such a case Money is only required in case there should be any undischarged balances of Debts

Again, suppose that Creditors and Debtors have accounts at the same Bank. The Debtor gives his Creditor a Cheque on his account. The Creditor pays it into his own account. And the Banker transfers the Credit from the account of the Debtor to that of the Creditor : and this is a complete payment of the Debt, without the use of Money. This operation is termed a **Novation.** Now it is evident that the larger a bank is, the more of its customers will deal with each other, and the greater will be the number of transactions settled by means of *Novations*, without the use of money

But the system has been carried to a greater degree of refinement still. By a device called the Clearing System, which will be more fully described in a future chapter, all the Banks which join in it are, as it were, formed into one huge Bank, in which Credits are transferred from Bank to Bank with as great facility as they are transferred from one account to another in the same Bank. By this ingenious system there were upwards of £7,000,000,000 of transactions settled in the London Clearing House alone, in the course of last year, by means of these **Novations**, without the use of a single coin. And if 7,000 millions could be settled without a single coin, it is evident that any times the amount might be so done with the same facility. Besides London, all towns of any size in the country have Clearing Houses as well. Hence, it is seen that the larger and better organised the System of Credit is, the less and less specie is required as its basis. Within the last fifty years the commerce of the country has increased manifold, and the quantity of Credit has multiplied many times, and yet there is probably not any more specie in the country than there was then: probably even less. In fact, money is never used in Commerce now, except to pay balances of Debts. Which proves that there is no necessary relation between the basis of specie and the superstructure of Credit built on it "

## *On* Barter: Sale *or* Circulation: *and* Exchange

### *On* Barter

**45.** When material products are exchanged directly for material products the transaction is termed **Barter**

### *On* Sale *or* Circulation

To understand Economics as a Science, we must revert to the original Concept of it by its founders the Economists, as the Science of Exchanges, or of Commerce, to which all the most intelligent Economists in the world are now reverting: as the only one by which it can be created into a Science: after the temporary confusion into which it was thrown by the unfortunate system of J. B. Say and John Stuart Mill, which is rapidly sinking into oblivion

The Economists only admitted an Exchange to be where a material product was exchanged for material product, *i.e.*, a Barter: that is, where each side obtained a **Satisfaction**

But in modern times such exchanges are comparatively rare. Persons usually want to obtain things from others, while these others want nothing from them. To obviate the inconveniences which would arise if no one could get what he wanted, unless he could supply the other party at the same time with what he wanted, people hit upon the plan of adopting some particular commodity, which should be universally exchangeable. The buyer, therefore, gave the seller in exchange for his product an equivalent in this universally exchangeable Merchandise, so that he could get any satisfaction he pleased from any one else who could render it

This universally exchangeable Merchandise is termed **Money.** The person who has got the Money has not got a satisfaction: his desire is not consummated, or completed. In order to obtain a **Satisfaction,** he must exchange away the Money for some product he does desire. Hence, the Economists termed a **Sale** a **Demi-Exchange**

Le Trosne says[1]—"There is this difference between an Exchange and a Sale, that in an Exchange everything is consummated, or completed (*consommé*) for each party. They possess the thing which they desired to procure, and they have only to enjoy it. In the Sale, on the contrary, it is only the purchaser who has attained his object, because it is only he who is in a position to enjoy. But everything is not ended for the seller"

And again—"Exchange arrives directly at its object, which is completion (*consommation*): it has only two terms, and is ended in one contract. But a contract in which Money intervenes is not completed (*consommé*): but it is necessary that the seller should become a buyer, either himself, or by the interposition of the person to whom he transfers the Money. There are, therefore, to arrive at completion (*consommation*), which is the ultimate object, at least four terms, and three contractants, of whom one intervenes twice"

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[1] *De l'Intérêt Sociale*, p. 905, 916

When, however, the person who had sold his product for Money, and, therefore, furnished a satisfaction to the other party, had himself exchanged away the Money and obtained a product for it, he, too, had acquired a satisfaction, which he could enjoy: and the Exchange was completed (*consommé*)

For this reason **Money** was called the **Medium of Exchange**

This **Sale**, the Economists termed **Circulation.** Sale, or Circulation, therefore, the Economists defined to mean the Exchange of a Product for Money. Circulation, therefore, meant Purchase with Money: in contradistinction to Exchange of Products: or Barter

But Credit is used in all respects in the same way as Money to Purchase, or Circulate, commodities. Hence, Sale, or Circulation, always denotes an Exchange in which one or both of the Quantities exchanged is Money or Credit

The sum total of these Sales is properly termed the **Circulation.** Hence any sum of Money, or Credit, may add considerably to the Circulation: because every time it is transferred it is a **Sale**, and therefore it augments the circulation. Just in the same way the Circulation of a newspaper is not properly the number of copies sold: but the number of its readers

Hence the **Circulation** is the Quantity of Money and Credit multiplied into the number of their Transfers

As the use of Money and Credit is to set industry in motion: and inasmuch as they have no use unless they do that: their beneficial effects are not measured by their actual amount, but by the industry which they generate. Money lying locked up in a box, or Credit unused, only represents latent power, and not actual power. They may be called Power or Wealth in the latent state: they resemble the steam engine of a mill which is not going: and which is of no use until it is set in motion

And as the produce of the mill is measured by the Quantity of the Motion of the engine: so the useful effect of Money and

Credit is measured by their Quantity of Motion : which is called the **Circulation.** The Circulation which is the sole test of their useful effect is therefore the product of their amount multiplied into the velocity of their Circulation. The Quantity of Motion of the engine is called its **Duty** : hence the Circulation of Money and Credit may be called its **Duty**

It is so essential to have a clear conception of the useful effect produced by any amount of Money or Credit, that we may add another illustration. The effect produced by any body in motion is measured by its weight or mass multiplied into its velocity : which is termed its **Momentum.** If the mass be diminished, yet by increasing its velocity, the effect, or Momentum, may still be the same. If a body weighing 100 lbs. move with a velocity 1, its momentum will be 100 : but if we diminish the weight to 50 lbs., and can double its velocity, the effect or the Momentum will still be the same—100

The useful effects of Money and Credit are exactly analogous. Their useful effect is the result of their combined amount and velocity of Circulation : which is termed **Circulation.** If we can make £50 circulate with twice the velocity of £100, the useful effect, or Circulation, will be the same. Hence it may be said that the Circulation is the **Momentum** of Money and Credit

## *On* Exchange

An Exchange is the interchange of things of a like nature : either products for products : or Money or Credit for Money or Credit

Thus we speak of the Foreign Exchanges, or the value of the Money of one country in terms of the Money of another. Or we ask for the change (*i.e.*, the 'change or exchange) of a £5 note, or a sovereign. A Bill of Exchange is a Right of action to be exchanged at the proper time for Money. So we exchange one book for another : or a picture for a statue

So in *Lear*, when Albany throws down his glove to the traitor Edmond, the latter, throwing down his own says—"There's my exchange": and a little further on Edgar says to Edmond—"Let's exchange charity"

So in *Hamlet*, Laertes says—"Exchange forgiveness with me, noble Hamlet"

When the interchange is between products and Money or Credit, the one who gives the Money or Credit, is said to **Buy** the product: and the one who gives the product is said to **Sell** it: and the quantity of Money given is termed the Price

When the exchange is between Money or Credit for Money or Credit, each side is said to Buy and Sell: and each quantity of Money or Credit exchanged for the other is termed the Price of the other

Thus we buy a horse, or a house, or land: or a Bill of Exchange: with Money or Credit. An officer formerly bought a commission in the army: but he exchanged from one regiment into another

## *On the Meaning of* Circulating Medium

**46.** We have now to consider two terms, **Circulating Medium** and **Currency,** which are both of comparatively recent origin: which have in recent times given rise to many controversies: but which are admitted to be synonymous: and consequently, if we can positively determine the meaning of one of them that will also necessarily determine the meaning of the other

The term Circulating Medium does not occur in Adam Smith. It seems to have come into use in the last decade of the last century. The first occasion on which we have met with it is in the debate on the Bank Restriction Act of 1797. Mr. Fox said[1]—"He wished that gentlemen, instead of amusing themselves with new terms of 'Circulating Medium' and the like," &c., which shows that it must then have been of very recent origin

Mr. Pitt in his reply said—"As so much has been said on the nature of a Circulating Medium, he thought it necessary to notice that he did not, for his own part, take it to be of that empirical kind which had been generally described. It appeared to him to consist of **Anything** that answered the great purposes of trade and commerce, whether in specie, paper, or any other term which might be used." It is quite evident, therefore, that Mr. Pitt included under the term Circulating Medium, or Currency, Money and Credit in all its forms. Which continued to be the invariable usage in all Parliamentary debates, until Lord Overstone perverted men's minds with a fantastic definition of his own, which he beguiled Sir Robert Peel into adopting

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[1] *Parliamentary History of England*, Vol. xxiii, p. 340

The verb to Circulate, like many others in English, has both an active and a neuter meaning

1. It means that which Circulates commodities: *i.e.*, which causes commodities to circulate: where it is an active verb

2. That which Circulates itself: where it is a neuter verb

Smith uses the word Circulate in both senses in different passages. Thus, speaking of gold and silver he says—"Their use consists in Circulating commodities"

"The great wheel of Circulation is altogether different from the goods circulated by it. The revenue of the society consists altogether in these goods, and not in the wheel that Circulates them." In these two passages Circulates is active

A little further on, he speaks of the different sorts of paper money: but he says that the Circulating notes of banks and bankers are best known: where Circulates is neuter

In the following sentence both senses occur—"Let us suppose, for example, that the whole Circulating money of some particular country amounted at a particular time to one million sterling, that sum being sufficient for Circulating the whole annual products of their land and labor"

The ordinary meaning of words in scientific language leaves no possible doubt as to which is the true meaning of Circulate, in the expression Circulating Medium. A medium, in scientific language, means some middle thing by which something else is effected. Thus Money is termed the Medium of Exchange, because it is the medium by which exchanges are effected. Hence the Circulating Medium is the medium by which the Circulation of commodities is effected

Now it has just been shown that by Circulation the Economists meant **Sales.** And how are Sales effected? By the means, or medium, of Money and Credit. Buying with Money effects the Circulation of commodities: but buying with Credit equally effects the Circulation of products: in whatever form the Credit may be, either written or unwritten

Hence Money and Credit are equally Circulating Medium: and the total amount of the Circulating Medium means the total amount of Money and Credit in all its forms

### *On the Meaning of* **Currency**

**47.** The meaning of the word **Currency,** which all writers admit to be synonymous with Circulating Medium, is much more recondite, and has given rise to protracted controversies in modern times, which, however, we shall not notice at present. We shall in this section merely explain the true meaning of the word

The word **Currency** is in fact a technical term in Mercantile and Constitutional Law: and the following is the true meaning of "**Current**" and "**Currency**" in English Law

It is a general rule of law that a person cannot transmit to another any better title to a thing than he has himself

As it is said[1]—"Nemo plus juris ad alium transferre potest quam ipse haberet"

"*No one can transfer to another a greater right than he has himself*"

It is also a general rule of law that if a person loses a thing, or has it stolen from him, he does not thereby lose the **Property** in it. Consequently he can not only recover it from the finder or thief, but also from any one else in whose possession he may find it: even though that person bought it, or took it in pledge, honestly, and in good faith, and gave full value for it, and not knowing that it was not the lawful property of the seller or pledger. This Right of recovery is termed the *Jus vindicandi* in Roman Law

But to this Rule of Law Money always was, from the very necessity of the case, an exception. If the true owner of the money finds it in the possession of the finder or thief, he can reclaim it. But if the finder or thief has once purchased goods with it, and the shopkeeper has taken it honestly, in the usual way of business, and without knowing it has been stolen, he can retain it against the true owner, even though he should be able to identify it. That is, the person who acquires Money honestly in the way of business, has a good title to it, even though the transferor had not. Thus it is said in Law that *the Property in Money passes by delivery.* Thus, after the Money has once been passed away in commerce to an innocent receiver, the true owner has lost his *Jus vindicandi*

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[1] *Digest*, 50, 17, 54

It is this peculiarity which affects the Property in Money, which passes by delivery, which is denoted by the words "**Current**" and "**Currency**" in English Law. And when an Act of Parliament declares that any instrument shall be "**Current,**" it means that the Property in it shall pass by delivery to the innocent purchaser

This Quality of **Currency** is also called **Negotiability**

And when the representatives of Money, such as Bank Notes, Cheques, Bills of Exchange, &c., came into use, the Law Merchant applied the same principle of **Currency** to them. They are like Money so far as this, that the Property in them passes like the Property in Money. Thus if they are lost, or stolen, the true owner may recover them if he can find them in the hands of the finder, or thief: but if the finder, or thief, succeeds in passing them away for value, in the ordinary course of business, to an innocent purchaser, that innocent purchaser acquires the Property in them: and may retain them against the true owner: and enforce payment of them from all the parties liable on them

This doctrine has been affirmed in a whole series of cases in the Courts of Law which we shall notice shortly

It follows from this, that in strict law, this principle of Currency can only be applied to those Rights of action which are recorded on some material. An abstract Right cannot be lost, mislaid, or stolen: or passed away in commerce. For a Right of action to be Currency in strict law, it must be recorded on some material, so as to be capable of being carried in the hand : or in the pocket : or put away in a drawer : or dropped in the street : or stolen from the drawer or the pocket : and carried off by the finder or thief : and transferred in commerce

So far then as regards Mercantile Law there is no difficulty : the meaning of the word is perfectly clear. But if the word Currency is used to denote a certain class of Economic Quantities, synonymous with Circulating Medium : a difficulty arises. Because there is an immense mass of Credit which has produced exchanges, and has circulated commodities : and is, therefore, Circulating Medium : which is not recorded on any material at all, in such a way that it can be lost or stolen, and carried off, and transferred in commerce by manual delivery

Thus the gigantic mass of Banking Credits, and the Book Debts of traders, have all effected a Sale, or Circulation : and, therefore, they are all Circulating Medium : but they have not the attribute of Currency in a legal sense : because they cannot be mislaid : lost : or stolen : and picked up, and passed away in commerce by manual delivery. So also private Debts between persons, termed Verbal Credits : they only arise from the transfer of goods or Money : and they exist equally whether they are recorded on paper or not. They are equally Circulating Medium. Private Debts among traders affect prices, and effect sales, exactly like so much Money. Consequently, though they are not Currency in strict law : yet if that word is still to be retained as a scientific term denoting a certain class of Economic Quantities, synonymous with Circulating Medium : they must all be included under that term : because they can all be recorded on paper at pleasure : and put into circulation, when they do actually become Currency in strict law : and their nature and effects are exactly the same, whether they are recorded on paper or not

In the great discussions in Parliament which arose out of the suspension of cash payments by the Bank of England, no attempt was made to define the term Currency. But all the speakers assumed that it comprehended Money and Credit in all its forms

This truth was well expressed by Lord Titchfield in the House of Commons in the debates of 1822. Speaking of the various forms of Credit used as substitutes for Money, he said[1]—"When it was considered to how great an extent these contrivances had been practised in the various modes of **Verbal, Book,** and **Circulating Credits,** it was easy to see that the country had received a great addition to its **Currency.** This addition to the **Currency** would have the same effect as if Gold had been increased from the mines"

### *Decisions of the* **Courts of Law** *regarding the* **Meaning** *of* **Currency**

**48.** The meaning of the word Currency has acquired so much importance in consequence of the Bank Charter Act of 1844 being based upon a peculiar definition of it, which will have to be examined hereafter, that it will be more satisfactory to our readers to place before them a *résumé* of the decisions of the Courts of Law as to the meaning of the term

**Bank Notes.** In *Miller* v. *Race* (1 Burr., 452), confirming *Anonymous* (1 Lord Raymond, 738), the Court of King's Bench decided that Bank Notes have the Credit and Currency of Money to all intents and purposes. "An action would lie against the finder: that no one disputes: but not after the Note had been paid away in **Currency.** An action would not lie against the defendant, because he took it in the course of **Currency:** and, therefore, it could not be followed into his hands. It never shall be followed into the hands of a person who *bonâ fide* took it in the course of Currency. A Bank Note is constantly and universally both at home and abroad, treated as Money, as cash: and it is necessary for the purposes of commerce, that their **Currency** should be established and maintained"

**Cheques.** In *Grant* v. *Vaughan* (3 Burr., 1516), the Court unanimously held that Cheques possess the attribute of **Currency,** exactly like Bank Notes

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[1] *Parliamentary Debates, N.S.*, Vol. ix., p. 868

**Bills of Exchange.** In *Peacock* v. *Rhodes* (2 Douglas, 633), the Court decided that Bills of Exchange possess the attribute of Currency, exactly like Bank Notes. Lord Mansfield said—"The holder of a Bill of Exchange, or Promissory Note, is not to be considered as the assignee of the payee. An assignee must take the thing assigned, subject to all the equity to which the original party was subject. If this rule applied to Bills and Promissory Notes, it would stop their Currency. The law is settled, that a holder, coming fairly by a Note or Bill, has nothing to do with the transaction between the original parties. I see no difference between a Note indorsed in blank, and one payable to bearer. They both go by delivery, and possession proves property in both cases"

In *Collins* v. *Martin* (B & P., 648), the same doctrine of Currency was applied to pledging Bills equally as to selling them. Eyre, C. J., said—"For the purpose of rendering Bills of Exchange negotiable, the Right of Property in them passes with the Bills. Every holder of the Bills takes the Property, and his title is stamped on the Bills themselves. The Property and the possession are inseparable. This was necessary to make them negotiable: in this respect they differ essentially from goods, of which the property and the possession are in different persons"

**Foreign Bonds.**—In *Gorgier v. Mieville* (3 B. & C.), Foreign Bonds payable to the holder were decided to possess the attribute of **Currency**: exactly as Bank Notes and Bills indorsed in blank

**Exchequer Bills.**—In *Wookey* v. *Pole* (4 B. and Ald. 1), Exchequer Bills payable to blank, or order, were also decided to possess the attribute of Currency. The question was whether Exchequer Bills followed the law of goods, in which there is the *Jus vindicandi*: or the law of Money, in which there is no *Jus vindicandi*. The Court held that Exchequer Bills follow the law of Money. Holroyd, J., said—"It has long been fully settled that Bank Notes, or Bills, Drafts on Bankers, Bills of Exchange or Promissory Notes, either payable to order and endorsed in blank, or payable to bearer, when taken *bonâ fide*, and for a valuable consideration pass by delivery, and vest a right thereto in the transferee, without regard to the title, or want of title, in the person transferring them. . . . . . . These authorities show that not only Money itself may pass, and the Right to it may arise by **Currency** alone: but further that these mercantile instruments, which entitle the bearer of them to Money, may also pass, and the Right to them arise in the like manner by **Currency** or **Delivery**. . . . . . We next consider the nature and effect of the instrument, both as to the property which it concerns, and as to its **Negotiability** by law. . . . . The instrument is created by the Statute 48, Geo. III., c. 1, and is thereby made **Negotiable** and **Current**. . . . . . The case, therefore, stands thus: this Exchequer Bill was a **Current** and **Negotiable** instrument for the payment of Money. Now Money passes from one person to another by reason of its Currency: and for that reason only: and not because it has no earmark, it cannot be recovered from the person to whom it has been passed. The Exchequer Bill, therefore, seems to me upon the same principle to follow the nature of Money for which it is a security"

In *Ingham* v. *Primrose* (7 C.B.N.S., p. 8), Williams, J., said—"It is, we think, settled law, that if the defendant had drawn a Cheque: and, if, before he had issued it, he had lost it, or it had been stolen from him, and it had afterwards found its way into the hands of a holder for value, without notice, who had sued the defendant upon it, he would have had no answer to the action. So if he had indorsed a Bill in blank, or a Bill payable to his order, and if it had been lost, or stolen, before he had delivered it to any one as indorsee. The reason is that such Negotiable Instruments have by the law merchant become part of the **Mercantile Currency** of the country: and in order that this may not be impeded, it is requisite that innocent holders for value should have a right to enforce payment of them against those who, by making them, have caused them to be part of such **Currency**"

In *Whistler* v. *Forster* (14 C.B.N.S., 248), Willes, J., said—"The general rule of law is undoubted, that no one can transfer a better title than he himself possesses: *Nemo dat quod non habet.* To this there are some exceptions: one of which arises out of the rule of the law merchant as to Negotiable Instruments. These being part of the **Currency**, are subject to the same rule as Money

In *Shute* v. *Robins* (1 M. & M., 133), Lord Tenterden spoke of bankers' paper as being part of the **Circulating Medium** of the country

In *Lang* v. *Smith* (7 Bing., 284), Tindall, C. J., said—"The first question was, whether the instruments in dispute had acquired from the course of dealing pursued in the City the character of Bank Notes, Cheques, Bills of Exchange, Dividend Warrants, Bills or other Instruments which form part of the **Currency** of the country"

In *Goodwin* v. *Robarts* (L. R., 10 Excheq., 377), scrip entitling the bearer to demand Bonds from a Foreign Government were also decided to possess the attribute of Currency

These extracts authoritatively decide the true meaning of the word **Currency.** It means that the Property to which this attribute is attached is an exception to the general *jus vindicandi*, which attaches to goods

It means that when once this class of Property has been acquired by a purchaser honestly in the way of business, the Property in it passes by delivery. And this is the sole meaning of the word Currency

These cases decide that Money and all written Securities for money made transferable by the parties to them, are all included under the term **Currency**

We shall consider the case of Credit not recorded as transferable documents in a future chapter

We may now observe that it is a great misfortune that the word **Currency** has established such a hold in Economics. Because it is not an Economical term at all. Circulating Medium is a technical term in Economics, and denotes a certain class of Quantities about which there can be neither mistake nor doubt. But Currency is a pure term of Mercantile Law, and has nothing to do with Economics. Circulating Medium is the name of a certain class of Quantities: but Currency is an *attribute* of certain Quantities: and to call the Quantities themselves by the name of an attribute they possess is as absurd as to call a Wheel a Rotation, or a Horse a Velocity. Suppose that the *jus vindicandi* was taken away by law, everything would be Currency

Nevertheless, the word is too firmly established to be abolished: and therefore the only plan is to remember that it is absolutely synonymous with Circulating Medium, and includes Money and Credit in all its forms both written and unwritten

### *The different* Forms *of* Currency

**49.** Adopting, then, the terms **Circulating Medium** and **Currency** as absolutely identical and synonymous, and as designating a certain class of Economic Quantities, its different forms are—

1. Coined Money, Gold, Silver, and Copper
2. The Paper Currency: Bank Notes, Cheques, Bills of Exchange, Promissory Notes, Exchequer Bills, Dividend Warrants, and all Orders and Promises to pay money
3. Simple Debts of all sorts: not recorded as Circulating Paper: such as Credits in bankers' books termed Deposits: Book Debts of traders: and private Debts between persons: because all these Debts may be recorded on paper at the will of the parties: and thrown into circulation: moreover, Simple Debts can be transferred with perfect facility without being recorded on paper. All these denote that a transaction has taken place, and are a Title to future payment. From these considerations it follows that the Circulating Medium, or Currency, of any country is the sum total of all the Debts, or Titles to future payment belonging to every individual in it: that is, all the Money and Credit in it

Postage Stamps must also be included under the term Currency. They are a most usual form of remittance: they pass in small payments: and since the Post Office is bound to cash them, they are in fact penny Notes. Though the point has not been actually decided at law, there can be no doubt that if any one were to steal postage stamps, and they were taken honestly in payment: it would be held that they possess the attribute of Currency: hence they are in every sense strictly Currency

## *On the* Channel *of* Circulation

**50.** The Quantity of the Circulating Medium, or the amount of Money and Credit, representing the **Indebtedness,** or the balances which arise from the unequal exchanges of products and services, is frequently termed by Adam Smith and other writers the **Channel of Circulation**

This Channel of Circulation is filled with some **Material** (counting written and unwritten Credit as identical) : and Prices are estimated by the Quantity of this Material, which is given in exchange for any Economic Quantities

Let us suppose that Gold alone was used at any time to represent Debt, and fill the Channel of Circulation. This Gold is divided into certain pieces of fixed weight and quality, termed Coins : and Prices are estimated in these Coins

But suppose that at any time Gold was discontinued, and Silver substituted as the representative of Debt : and suppose that Coins were struck of Silver of exactly the same weight as the Gold ones

Then as Silver is at the present moment about twenty-four times less valuable than gold : it would require twenty-four times as many Silver Coins to represent any amount of Debt, as it would Gold coins. And Prices would rise twenty-four fold : but other products would still preserve the same relations among themselves. Hence, though Prices would rise, yet the Values of products with respect to each other would remain exactly the same

Again, suppose that Silver was taken away as the representative of Debt, and Copper substituted: and Copper coins struck of the same weight as the previous Gold and Silver ones, and called by the same name. Then Prices would be estimated in Copper coins : and as Copper is about 900 times less valuable than Gold, Prices estimated in copper would rise to about 900 times their amount in Gold. But the relative value of all other commodities, would remain the same.

Now, as the Value of Gold as representing Debt, depends on the Quantity of Gold which represents any amount of Debt, it would manifestly follow that if the quantity of Gold which represented any amount of Debt were greatly increased, the Value of Gold would greatly diminish. If Gold became as plentiful as Silver, Gold would have no more Value than Silver. Consequently, even while the weight and quality of the Coins remained the same, Gold would fall to the twenty-fourth part of its former value as a Purchasing Power

So if Gold became as plentiful as Copper, it would be of no more purchasing power than Copper : that is, it would fall to about the 900th part of its former Value

Thus, in a general way, if any quantity of Stuff of any sort is used to represent any quantity of Debt at any time : and if the quantity of Stuff is greatly increased, while the quantity of Debt remains the same, it necessarily produces a great diminution in the Value of the Stuff, or a general rise of Prices

But the quantity of Stuff which represents Debt, and fills the Channel of Circulation, need not be all of the same material. It may be partly Gold, partly Silver, and partly Copper: and Prices will be estimated by the whole quantity of Stuff which fills the Channel of Circulation, and not by any particular portion of it

In modern times a new kind of Stuff is employed to a gigantic extent to fill the Channel of Circulation; and that is **Credit**: or Rights of action in various forms

With respect to Credit there is a most important observation to be made : Credits in some countries are made payable in Gold: and in some countries in Silver

Now Credits payable in Gold—which we may term Gold Credits—are of exactly the same Value as Gold: and Credits payable in Silver—which we may term Silver Credits—are of exactly the same Value as Silver

Hence the Value of Gold throughout the world is determined not only by the actual quantity of Gold : but by the aggregate quantity of Gold, and all Gold Credits

So the Value of Silver throughout the world is determined not only by the actual quantity of Silver : but by the aggregate quantity of Silver, and all Silver Credits

And, furthermore, the Value of Gold compared to Silver is determined, not only by the relative quantities of Gold and Silver themselves : but by the ratio of the aggregate of Gold and all Gold Credits compared to the aggregate of Silver and all Silver Credits

It is the enormous creation of Credit in modern times, in the forms of Mercantile Credits and Banking Credits, which has so prodigiously raised the Prices of commodities, and diminished the Rate of Interest in the last two centuries in this and in many other countries : as we shall show more fully hereafter

It will be shown hereafter that the Quantity of Credit which is used and in circulation in this country is at least one hundred times the amount of Metallic Coin

Furthermore, there are in some countries, such as Russia and others, vast quantities of Inconvertible Paper Money : this Paper Money is an independent standard, just like Gold and Silver : it is almost everywhere at a heavy discount as compared to Specie : but it is nevertheless a standard at its Value in Specie

And the total aggregate of all the Gold and Gold Credits—all the Silver and Silver Credits—and all the Inconvertible Paper Money and Paper Money Credits—constitutes the Circulating Medium, or Currency, of the World in which Prices are estimated

Hence the thorough comprehension of the principles and mechanism of the colossal system of Credit is the very foundation of modern Economics

It is the quantity of Credit which in modern times has the greatest influence on Prices—far greater than the quantity of Gold and Silver : and Variations in the quantity of Credit produces more changes in the Value of Commodities than any changes in the quantity of Gold and Silver : and it is the abuses of Credit which produce those terrible calamities known as Commercial Crises and Monetary Panics, which we shall have to investigate hereafter

### *On* Price

**51.** When any Economic Quantity is exchanged for any other Economic Quantity, each is termed **The Value** of the other.

But when one or both of the Quantities exchanged is Money or Credit, it receives a special name—it is termed **Price**. **Price** therefore always is **Value** expressed in **Money** or **Credit**

Now the Value of Money is any *other* Economic Quantity which can be obtained in exchange for it: either a material chattel: or a service: or a Right, such as a Debt

If Money be taken as the fixed Quantity, the *more* of the other Quantity which can be obtained in exchange for it, the Greater is the Value of Money. The *less* of the other Quantity which can be obtained for it, the Less is the Value of Money

Or if the other Quantity be taken as the fixed Quantity: the *less* the money given for it, the greater is the Value of Money: and the more the Money given for it, the less is the Value of Money

Hence it is seen that—*The* **Value** *of* **Money** *varies* **Inversely** *as* **Price**

But Credits, or Debts, are Commodities or Merchandise, which are brought into commerce, and bought and sold, or exchanged like any other merchandise

Now when any Commodities or Merchandise are brought into commerce, they are always divided into certain Units for the convenience of sale. Coals are sold by the ton: corn by the quarter: tea and sugar by the pound: cloth by the yard: wine and other liquids by the gallon, quart or pint, &c.

So for the convenience of commerce, Bullion is divided into Units called Coins

In a similar way, when the Commodity, or Merchandise, termed Credit, or Debt, is brought into commerce, it must, for the convenience of trade, be divided into **Units**

*The* **Unit** *of* **Credit**, *or* **Debt**, *is the* **Right** *to demand* **£100** *to be paid one year hence*

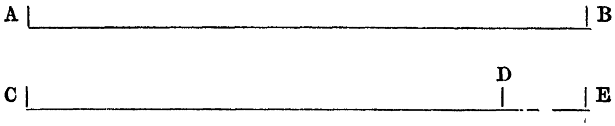
The sum of Money given to purchase the Unit of Debt is also termed its Price. And as in all other sales, the less the quantity of Money given to purchase the Unit of Debt, the greater is the Value of Money: and the greater the quantity of Money given to purchase the Unit of Debt, the less is the Value of Money

Hence the Value of Money with respect to Debts, varies exactly in the same way as it does with respect to any other merchandise

But in the commerce of Debts it is not usual to estimate the Value of Money by the quantity of Debt it will purchase. As Money naturally produces a profit, it is clear that the Value, or Price, of a Debt to be paid only one year hence must be less than the actual amount of the Debt. The difference between the Present Value, or the Price of the Debt, and the amount of the Debt is the Profit made by buying it

This difference, or profit, is termed **Discount**

As dear old Horace says, that it is more easy to understand things addressed to the eye than those only addressed to the ear, the following figure will make the matter clearer—



Let A B be the Unit of Debt

C D the amount of Money given for it: *i.e.*, its Price

D E the difference between the Price of the Debt and its Amount, *i.e.*, the Discount

In the commerce of Debts it is invariably the custom to estimate the Value of Money by the Discount, or Profit, it yields: and not by the Price of the Debt

Now as the Price of the Debt decreases or increases, it is evident that the Discount increases or decreases: and the Value of Money estimated in this way increases or decreases

Hence in the commerce of Debts, the Value of Money varies **Directly** as the Discount

This rule embraces both branches of commerce—

### *The* Value *of* Money *varies* Inversely *as* Price: *and* Directly *as* Discount.

To Discount a Debt is to buy it by paying down the Present Value of its amount payable at a future time

Hence it must be observed that the term Value of Money has two distinct meanings in commerce. There are three great branches of commerce: the commerce in material commodities: the commerce in labor: and the commerce in **Debts.** And the expression "Value of Money" has two distinct meanings, as it is applied to these three branches of commerce. In the commerce of material commodities and in the commerce of labor it means the quantity of the commodity, or of the service, which Money can purchase: in the commerce of Debts it means the Discount, or Profit, made by buying the Debt

### *On* Interest *and* Discount

**52.** Profits made by trading in Debts are made in two ways—

(1) When the person who buys the Debt agrees to defer receiving the Profit until the end of the time agreed on

In this case the Profit is termed **Interest**

Thus, when a person buys a Debt of £100 payable one year hence, at £5 per cent. Interest, he pays down the £100: and receives in exchange for it the Right to demand £105 at the end of the year

*The* **Debt** *is the* **Price** *of the* **Money**: *and the* **Money** *is the* **Price** *of the* **Debt**

When the Debtor pays the Debt he brings the £105 in Money to his Creditor: and buys up the Right of action against himself.

Thus every "Loan" of Money, as it is called, is a Sale or an Exchange: the lender transfers the Property in the Money to the "borrower": and in exchange for it receives the Right of action to demand the Principal and Interest at the end of the year

This Right of action is a new Creation of Property: and is the Credit, or the Debt

All "loans" of Money are Sales or Exchanges: they are acts of commerce: and, therefore, enter into the Science of Economics.

(2) Where the Difference, or Profit, is retained at the time of the purchase of the Debt

In this case the Profit is termed **Discount**

But Discount itself is of two kinds—

(*a*) In the ordinary books of Algebra it is said that Discount is where the Profit is retained at the time of the purchase: and the sum paid for the Debt is such a sum as, improved at the given Rate of Interest, should be equal to the full amount of the Debt, at the end of the period of advance

It is, therefore, the Present Value of the sum agreed upon at the agreed upon Rate of Profit. This may be called Algebraical Discount. It is used by Insurance Companies in determining the Present Value of Future Payments: and in some other cases.

(*b*) But this kind of Discount is never used by bankers and dealers in Money. In banking it is invariably the custom to retain the full amount of the Profit agreed upon at the time of Purchasing the Debt

Thus, if a banker discounts a Bill of £100 for a year at 5 per cent., he deducts and retains the full £5 at the time of the purchase, and gives his customer a Credit for £95. That is, he creates a Right of action of £95, to purchase the Right to £100 at the end of the year

As this method of Discount is invariably used in banking and money lending, it may be termed **Banking Discount**

The *Rate* of *Interest* or **Discount** is the ratio of the profit to the amount of the Debt, made in some given time, as the year

The profits made by Interest and Algebraical Discount are exactly equal: but Banking Discount is more profitable: because in the example given in the former case, a profit of £5 is made on the advance of £100: in the latter case on the advance of £95

So long as the Rate of Discount is low, there is not much difference in the Profits by way of Interest or Banking Discount. But as the Rate increases, the Profit increases at a very rapid ratio, as may easily be seen

If a person "lends" £100 at 20 per cent. Interest: he advances £100, and at the end of the year receives £120: which is a profit of 20 per cent.

If he discounts a Bill for £100 at 20 per cent., he advances only £80: and at the end of the year receives £100; which is a profit of 25 per cent.

If he lends £100 at 50 per cent. Interest he advances £100: and at the end of the year receives £150: which is a profit of 50 per cent.

If he discounts a Bill of £100 at 50 per cent., he advances only £50: and at the end of the year receives £100: which is a profit of 100 per cent.

So Discounting a Bill of £100 at 60 per cent. is a profit of 150 per cent.

If a person lends £100 at 100 per cent. Interest: at the end of the year he receives £200: which is a profit of 100 per cent.

If he Discounted a Bill of £100 at 100 per cent., he would advance Nothing: and at the end of the year he would receive £100: or his profit would be **Infinite**

It would be out of place here to investigate the whole Theory of Banking Discount: but we have given a full exposition of the subject in our *Theory and Practice of Banking* and *Elements of Economics*

## *On* Production

**53.** The word **Production**, as a technical term in Economics, comes from the Latin *producere*, which means to lead or bring forth: or to expose for sale

Thus Thais in the *Eunuchus* of Terence, says (Act I., 1, 90)—

"Ancillas, servos . . .
Omnes **Produxi**, vendidi"

*"All the Slaves male and female I offered for sale, and sold"*

So also Suetonius (De illus. gram. c. 4) says—

"Quum familia alicujus produceretur"

"*When any one's household slaves were offered for sale*"

The original sense of **Produce** in English is exactly the same. It is to draw forth, to cause to come near. Thus in Isaiah, XLI., 21, it is said—"**Produce** your cause with the Lord: bring forth your strong reasons, saith the King of Jacob"; and the marginal note says—"Produce—cause to come near"

So Antony in *Julius Cæsar* (Act III., sc. 1), says—

"That's all I seek,
And am moreover suitor, that I may
**Produce** his body in the market place"

So, Albany says in *Lear* (Act V., sc. 3)—

**Produce** their bodies, be they alive or dead"

So, when Mr. Montague Tigg gives Mr. Jonas Chuzzlewit and party a dinner—"It was as good a one as Money (or Credit, no matter which) could **Produce**"

To **Produce**, is simply to bring forward something, and place it where it is wanted. If a witness is told to **Produce** a deed, or document, in Court, it means that he is to bring it into Court, and place it there. A party to a cause **Produces** his witnesses in Court. A gaoler is ordered to **Produce** the body of his prisoner in Court: *i.e.*, to place him there

In the Universal language of commerce the **Producer** is the person who brings anything into the market, and offers it for sale. When the turn of the market is for or against the **Producer**, it means that it is for or against the Seller

Hence the true and original meaning of **Production** in Economics is to place anything in the market, and offer it for sale. A thing may be produced in nature, but until it is offered for sale, it is not **Produced** in Economics

A great poet may *produce* a great poem: a great artist may *produce* a great picture: a great sculptor may *produce* a great statue: we may estimate their merits most highly: they may be among the highest products of human genius: but how are we to estimate their Market Value? For Economics has nothing to do with them, except so far as regards their Market Value. Hence, though the poem, the picture, or the statue, may be *produced* in nature, or called into existence: they are not **Produced** in Economics, until they are brought into the market, and offered for sale

So in French, the original and primary meaning of *Produire*, as Littré says, is *pousser en avant:* and of *production* it is *action de produire, de mettre en avant*

A **Product** in Economics is **Anything** whatever which is brought into the market, and offered for sale: whether it be Material, Immaterial, or Incorporeal

It has been too much the custom in Economics, especially in recent times, to think of the word Production only as meaning bringing something into existence. But when it is seen that Production means placing something in the market and offering it for sale: it is evident that the product must not only be called into existence, but transported from place to place

Hence modern Economists expressly class *Transport* or *Circulation* as one form of Production

Thus Destutt de Tracy[1] under Production includes changes of form and *place*

J. B. Say enumerates *Transport* under the term Production. Michel Chevalier does the same. Mill, who gives the first book of his work to Production, in the sense of obtaining things from the earth, in a subsequent chapter says[2]—"Improvements in *production*, understanding this last expression in its widest sense to include the *process of procuring commodities from a distance*, as well as that of producing them"

Hence Foreign Importers, Merchants, and Traders of all sorts, wholesale and retail, are **Producers**: because they transport commodities from one place to another, and offer them for sale in the place where they are wanted

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[1] *Traité d'Economie Politique*, p. 82

[2] *Prin. of Pol. Econ., Bk. IV.*, c. 3, § 1

### *Three Classes of* Economic Producers

**54.** Now in general there are three distinct kinds of operations necessary before a Commodity can be placed in the market and offered for sale to the final purchaser, who purchases the finished product, and takes it out of commerce for personal use and enjoyment: who in the language of Economics is termed the **Consumer**

(1) **Agricultural Producers.**—One class of persons obtains the rude produce from the earth: this class includes agriculturists, miners, hunters, fishermen, breeders of cattle, herds, &c.: these persons bring their products into the market and offer them for sale

(2) **Manufacturing Producers.**—But when this raw produce is first brought into the market it is seldom fitted for final purchase and human use without undergoing several processes of manufacturing and fashioning

Manufacturers of all sorts purchase the raw produce from its first or agricultural producers: and fashion and transform it by an infinity of processes: so as to render it fit for human use

(3) **Commercial Producers.**—But after the raw produce of the earth has, by the various processes of manufacture, been rendered fit for human use, it has still to be transported from one country to another: and from one place to another in the same country: before it is placed in the market, and finally offered for sale to the consumer, who takes it out of commerce for his own use and enjoyment. These Commercial Producers include Foreign Importers, Merchants, and Traders of all sorts, wholesale and retail

Now Money is used to effect all these operations: hence Money employed in any one of them is used as **Productive Capital**

But Credit is also used in exactly the same way as Money to effect any of these operations. Hence Credit may be used in all respects like Money as Productive Capital

We have shown in the introduction that it was one of Adam Smith's grand services to Economics to demonstrate that

Manufactures and Commerce are productive of Wealth, as well as agriculture, which the Economists contended was the only form of Productive Labor

### *On* Consumption

**55. Consumption** in Economics is the correlative term to Production

The Producer is the person who offers a product for sale in commerce : the Consumer is the person who purchases it for his own use and enjoyment : and takes it out of Commerce

Hence **Production** and **Consumption** constitute **Exchange**

A great deal of misconception has been introduced into Economics in recent times, by the unfortunate fact that the English word Consumption represents two French words *Consomption* and *Consommation*

Now *Consomption* comes from *Consumer*, which necessarily means destruction. But *Consommation* comes from *Consommer* which means to finish, to accomplish, to complete : and in no way involves destruction

Now *Consommation* is the technical term in French Economics for Consumption ; and what we have to do is to determine the meaning of *Consommation* in French

The Economists termed the person who brought a product into the market and offered it for sale the *Producteur* : and the person who purchased it for use and enjoyment, and took it out of commerce, the *Consommateur* or the *Acheteur-Consommateur*, the Buyer-Consumer

*Consommation* is derived from *Consommer*, which comes from the Latin *Consummare*, to *complete*, to *accomplish*

Thus La Fontaine says—"En peu de jours il *consomma* l'affaire."—"In a few days he *completed* the transaction"

So Pascal says—"On va chercher et *consommer* la démonstration."—"We must now seek for and *complete* the proof"

So Dupuis says—"Durant laquelle se *consomme* le grand ouvrage."—"During which the great work is *completed*"

Another writer says—" Le sacrifice d'Isaac, qui ne fut point *consommé*, fut l'image de celui qui fut *consommé* sur la croix."—"The sacrifice of Isaac which was not *completed*, was the type of the one which was *completed* on the Cross "

We need not multiply instances: as every French scholar knows well enough that the genuine sense of *consommer* is to Complete, to Accomplish

And this was the meaning universally given to *Consommation* by the early French Economists

Thus Le Trosne says—" There is this difference between an exchange and a sale, that in an exchange everything is *completed* (*consommé*) for each party : they have the thing which they wished to procure, and have only to enjoy it. In a sale, on the contrary, it is only the buyer who has gained his object: because it is only he who is able to enjoy. But all is not finished (*terminé*) for the seller "

Also—" Exchange arrives directly at its object, which is completion (*consommation*) : there are only two terms and it is finished (*se terminé*) in one contract. But a contract in which Money intervenes is not completed (*consommé*), because the seller must become a buyer, either by himself, or by the interposition of him to whom he transfers his money. There are, therefore, to arrive at completion (*consommation*), which is the final object, at least four terms and three contractors, of whom one intervenes twice "

So Blanqui says—" Toutes les transactions devaient se *consommer* par forme d'échange."—" All business must be *completed* in the form of an exchange "

So Cournot says—" Où se *consomment* les achats et les vents."—" Where sales and purchases are completed "

Michelet says—" Il ne *consomme* rien, ne finit rien."—" He *completes* nothing, *finishes* nothing "

*Consommation*, or Consumption, then, in the language of the early French Economists, simply meant the *completion* of an Exchange. Suppose for example, that a painter and a sculptor agree to exchange a picture and a statue. When the painter has received the statue and the sculptor has received the picture, each has Produced, *i.e.*, offered in exchange his own work, and has

**Consummated** his desire by obtaining the object he wished to enjoy. And the Exchange is **Consummated,** or **Completed,** because each has obtained a **Satisfaction.** Hence was effected what the early Economists called a complete Exchange. But there was no idea of Destruction in this reciprocal Consummation of desires

The *Consommateur*, or *Consumer*, then, was the person who Consummated, Completed, or Accomplished the desire of the Producer. The Producer brings forward something and offers it for sale: but it is the Purchaser who gives Value to it: it is he who crowns the work, and Consummates the desire of the Producer: or completes the transaction by purchasing the product by giving something in exchange for it: which is its value. The consumer, therefore, meant nothing but the Purchaser, or Customer

Thus *Consommation* was used by the early French Economists to mean simply **Demand**

Thus Boisguillebert, the morning star of modern Economics, says—" *Consommation* (*Demand*) is the principle of all Wealth "

" All the revenues, all the riches in the world, both of a prince and his subjects, only consist in **Demand** (*consommation*) : all the most exquisite fruits of the earth, and the most precious products would be nothing but rubbish if they were not **Demanded** (*Consommés*) "

So Smith uses the word *Consume* simply to mean to *Purchase* —" Though we frequently, therefore, express a person's revenue by the metal pieces which are commonly paid to him, it is because the amount of these pieces regulates the extent of his power of **Purchasing,** or the Value of the goods which he can annually afford to *Consume*. We still consider his income as consisting in this power of **Purchasing,** or **Consuming,** and not in the pieces which convey it "

It was J. B. Say who first used *Consommation* to mean *destruction*. We have, in the Introduction, pointed out the absurd consequence to which this leads. But even Say, himself, says— "The *Consommateurs* (*Consumers*) of things are the *Buyers*" : and certainly persons do not purchase everything for the sake of destroying it

We must, therefore, eliminate all idea of Destruction from the term *Consommation* or Consumption, in Economics: and leave only *Purchase* as its true meaning. The consumer is simply the Purchaser, or Customer

Hence the student must carefully observe that in the language of Economics the expression "Production and Consumption," is one and indivisible: and it must not be separated into its component terms. It simply means Supply and Demand. "Production and Consumption," or "Supply and Demand," together constitute Exchange: and each act of Exchange is a phenomenon of Value, or of Commerce

### *On* Payment *and* Satisfaction

**56.** The words **Payment** and **Satisfaction** are often supposed to be synonymous, but they are not so

The word **Payment** means anything whatever which is taken in exchange for anything else

It originally came from the Sanskrit Paç, which is the same word as the Greek πήγω, Doric πάγω, πήγνυμι

In old Latin this was Pago, or Paco: the same as paciscor: and also Pango, pegi, or panxi, pactum: to covenant: agree with: or come to terms with

Thus it is said in the Laws of the XII. Tables—

"Rem ubi pagunt, orato"

"*If they come to terms, let it be settled as agreed upon*"

"Ni pagunt, in comitio aut in foro ante meridiem causam conjicito"

"*If they do not come to terms, bring on the cause before midday either in the comitium or the forum*"

Hence, *pacare* is to come to terms with: to appease: hence the Italian *pagare*, and our *pay*

When one person has parted with anything else to another person, or done him a service, he is entitled to receive from him some equivalent: unless it was meant as a donation. But at the same time he has the right to accept **anything** he pleases as an **Equivalent**

Thus where two persons agree to exchange any material products, each is payment for the other: because each product satisfies and appeases the claim of the other for an equivalent. When goods are paid for in Money it is sometimes supposed that it is only the Money which is Payment for the goods. But the goods are equally payment for the Money. Because each person has got what he agreed to take in exchange for his product

So when Money is paid as Wages for work done, the Money is Payment for the work: but the work is equally Payment for the Money

So when persons agree to exchange different kinds of work, each is payment for the other

So when a merchant agrees to take a trader's Bill at three months in exchange for goods: the Bill is Payment for the goods: it appeases the claim of the merchant: because he has agreed to take a Right of action in exchange for the goods. And the goods are equally Payment for the Right of action

When the Bill becomes due the trader has to pay his Bill: that is, he has to appease the claim which the holder of the Bill has for Money. And when he pays the Bill, he buys up the Right of action against himself

The Money is the Payment for the Right of action: and the Right of action is Payment for the Money

Hence to **Pay** means simply to appease: when a man *pays* his Debt, he appeases the Right or claim which his Creditor has to demand a sum of money from him. When he *pays* his Rent, he appeases the Right which the owner of the house or land has against him for compensation for its use

But it does not follow that a Payment is a final closing of the transaction. The only legal word which denotes a final closing is **Satisfaction.** If a Bill is taken in exchange for goods it is **Payment**: but it is not **Satisfaction** (unless it is expressly received as such) until the Bill itself is paid

If, however, the owner of the Bill neglects to follow up his legal remedy, the Bill becomes not only Payment, but Satisfaction: by doing so the owner of it has made it Money

And Economists go further: they say that Money itself is only a higher order of Bill: that, though when a person has received Money it is Payment: but it is not Satisfaction, until he has exchanged away the Money for some object he desires

Thus, though a shoemaker is paid when he has got Money for his shoes: yet he has not got a satisfaction until he has got bread, or meat, or clothing, or something else he desires for the Money

### *On* Capital

**57.** Adam Smith's use of the word **Capital** strikingly exemplifies the defect of his definitions. He enumerates as Capital: (1) Material things: (2) Personal Qualities: (3) Abstract Rights, such as Bank Notes, Bills of Exchange, &c., which are Credit. That is, he enumerates all the three orders of Economic Quantities as Capital

Now when we are told that all these things are Capital, we have no more notion of what Capital is, than if we were told that they are all **Abracadabra**

We do not want an **enumeration** of what things are Capital: but we want a Definition of what **Capital** is

The word **Capital** is derived from the Latin *Caput*, which means the source of a spring, or the root of a plant—namely, the source from which any increase flows

Thus Plautus says—

"O scelerum Caput"—*O source, or fountain, of crimes*"

"Perjurii Caput"—"*O fountain of perjury*"

Stephen, in his Thesaurus, thus defines the word—

"Κεφάλαιον—Caput unde fructus et reditus manat"

"**Capital**—*the source from which any Profit or Revenue flows.*"

So Senior says—"Economists are agreed that **Whatever** gives a **Profit** is properly termed **Capital**"

And de Fontenay says—"Wherever there is a **Revenue** you perceive **Capital**"

This is a good general Definition: and the "Whatever gives a Profit" must be interpreted in as wide and general a sense as the "Anything whose Value can be measured in Money" is in the definition of Wealth

The Definition of **Capital** is, therefore, this—

"**Capital** is any **Economic Quantity** used for the purpose of **Profit**"

### *Any* Economic Quantity *whatever may be used as* Capital

**58.** Now, as Aristotle pointed out, any Economic Quantity whatever may be used in two different ways—

(1) The proprietor may use it for his own personal enjoyment

(2) He may trade with it : *i.e.*, he may use it so as to produce a Profit

When any Economic Quantity whatever is used so as to produce a profit : *i.e.*, is traded with—it is termed **Capital**

Economic Quantities, it has been shown, are of three distinct orders : (1) Material Things : (2) Personal Qualities, both in the form of Labor and Credit : (3) Abstract Rights

And each of these Quantities may be used in either of the above ways

I. **Material Things.** Suppose that a person has a sum of Money. If he expends it on his own personal gratification, or household expenses : such Money is not used as Capital : because he makes no profit by it

But if he lends it out at interest : or if he buys goods with it for the purpose of selling them again at a profit : or if he buys into the Funds : or the Shares of any commercial company : then he uses his Money as **Capital** : and the goods are also Capital, because he intends to sell them again at a profit : and the Funds and the Shares are also Capital, because they produce him an annual revenue

So, if the owner of land lives on it himself, and uses it for his own personal enjoyment : he does not use the land as Capital

But if he lets it out to farmers : or to builders to build houses upon : and receives a Rent for so doing : then he uses the land as Capital

Some great noblemen possess large tracts of land upon which part of London is built : that land yields them enormous revenues : and therefore it is Capital to them

And so any material thing whatever may be used as Capital

So if a person spends Money merely on a general education, of which he makes no profitable use: that Money is not used as Capital

But if he spends his Money in acquiring a professional education: such as that of a schoolmaster, an advocate, a physician, a surgeon, or an engineer, or any profession by which he intends to earn an income : then he uses the Money as Capital.

And the professional knowledge which he has thus acquired is Capital to him, because he makes an income by trading with it.

II. **Personal Qualities.** Personal Qualities may also be used in both ways. But Personal Qualities are of two forms—they are of the form (*a*) of Labor: and (*b*) of Credit

(*a*) **Personal Qualities as Labor**—If a man digs in his own garden for his amusement: or if he sings, acts, or gives lectures for the delectation of his friends—such Labor is not used as Capital

But if he sells his Labor in any way for Money : then he uses his Labor as Capital

Thus Huskisson said—"He had always maintained that Labor is the poor man's **Capital**"

So Mr. Cardwell speaking to his constituents said—"**Labor** is the poor man's **Capital**"

So a writer in a daily paper said—"The only **Capital** they possess is their **Labor**: which they must bring into the market to supply their daily wants"

And speaking of them the Economist said—"They have no Capital but their Labor"

So Froude said in *Oceana*—"And the land would be within the reach of poor men who have no **Capital** except their Labor."

So Cardinal Manning said—"I claim for **Labor** the rights of **Capital.** It is Capital in the truest sense. . . . The Capital of Money and the Capital of strength and skill must be united together"

So his knowledge, skill, and abilities are Capital to any one who earns an income as an advocate, physician, actor, engineer, or as manager of a great commercial company, or in any other profession. His services are wanted, demanded, and paid for by his clients: their Value is measured in money: hence they are *χρήματα*, or Wealth: and as he makes an income by their employment, they are Capital

This income is measurable and taxable, just in the same way as if he made an income by selling corn, cattle, or any other material chattels

All modern writers admit that Labor is a marketable commodity which can be bought and sold like any material chattel: and consequently it is Wealth: and as a person can sell his Labor for a profit, and make an income thereby, it may be used as **Capital**

(*b*) **Personal Qualities as Credit.** So Personal Credit may be used in two ways. If a person buys goods on Credit for his own enjoyment, as for household use, such Credit is not used as Capital

But a merchant may use his Credit for the purpose of Profit: and therefore as **Capital**

He may use it for the purpose of purchasing goods, or materials: or in employing Labor: By giving a Promise to pay at a future time, instead of actual Money. He sells the goods and makes a profit by so doing: just as if he had paid for them in Money

Or he may employ Laborers by means of his Credit: and sell the products for more than they cost: and so make a profit: in these ways he uses his Personal Credit as **Capital**

When Personal Qualities, either in the form of Labor, or of Credit, are used in this way to produce a profit, they are termed **Personal Capital**

III. **Rights.** When Personal Credit is used as a Purchasing power, a Right of action, or an Economic Quantity of the third order is created. And as this Right of action may be bought and sold, or exchanged, like any material chattel: it is a Marketable Commodity. The traffic in these Rights of action is the most colossal branch of modern commerce. It is in buying and selling these Rights of action that bankers make their profits. But as the commerce in these Rights of action is the subject matter of this work, we shall say no more about them here

But any other Right may be used as Capital. If a man buys the Funds, or Shares in any Commercial Company, or municipal or other obligations, such as Railway Debenture Stock: all these and many other classes of Rights produce him a profit: hence they are Capital to him

So the Copyright of a successful work is Capital to the author: and if he sells it to a publisher, it becomes fixed Capital to him

There is a class of traders whose especial business is to buy and sell **Rights**: such as Shares in all kinds of Commercial Companies, and Public Securities: they keep a stock of this kind of Property on hand, just as other traders keep a stock of material goods. These persons are termed Stock Jobbers

### Capital *may Increase in* two *distinct ways.*

**59.** Capital may increase in two fundamentally distinct ways—

(1) By actual increase of Quantity: as cattle, flocks and herds, and all animals: and all the fruits of the earth: increase by adding to their number, or Quantity

(2) By **Commerce** or **Exchange**: that is by exchanging away something which has a lower value in a place: and obtaining something in exchange for it which has a higher Value in that place

Money is used as Capital, and produces a profit, by the second of these methods. Money is used as Capital either by advancing a certain sum of it, and acquiring the Right to be repaid the capital, together with interest, at a future time: or by buying goods which are to be sold for a higher price than they cost: or by employing Labor to produce commodities: and selling them at a higher price than they cost

It is also clear that any Economic Quantity which is used as a substitute for Money, and produces exactly the same effects and profits as Money: may be used as Capital as well as Money: by the force of the definition which Senior says all Economists are agreed in

Hence if a merchant or trader can purchase goods, or labor, with his Credit: by giving his Promise to pay at a future time: and can sell the goods at a higher price than he had paid for them: and so make a Profit after paying and discharging the Debt he incurred by buying them—then it is clear that his **Credit** has been **Capital** to him exactly in the same way and in the same sense that Money is

Take a very simple example. Suppose that a trader buys goods for £100: and sells them for £125: he first replaces his original capital of £100: and then he has a surplus of £25. He is therefore better off by £25 at the end of the operation than he was at the beginning: and he has used his Credit as Capital

On the other hand, suppose that the trader sees he can make a profit if he has the means to purchase goods. But suppose that he has no Money and no Credit: then he can purchase no goods: and he can make no profit

But suppose that he has Credit: that is, that the owner of the goods has confidence in his skill, integrity, and character—he may sell him the goods, and take as the price his Promise to pay at a future time, instead of actual Money

Now as the payment is deferred: and there is always some risk of failure in payment: the price in Credit is always higher than the price in Money

Suppose that the price in Credit is £105: then, as before, the trader sells the goods for £125. At the agreed upon time he discharges his Debt of £105: and he has a profit of £20. That is, he is better off by £20 at the end of the operation than he was at the beginning: and thus he has used his **Credit** as **Capital**

Now by the purchase with Money he is £25 better off at the end of the operation than he was at the beginning: and by the purchase with Credit he is £20 better off than he was at the beginning. It is true that he does not make so great a profit by Credit as by Money: but yet he has made a profit by his Credit which he could not have made without it

Hence by the very definition, his **Credit** has been **Capital** to him: and it has produced exactly the same circulation of commodities that Money would have done

Hence it is clear that **Credit** is **Productive Capital** exactly in the same way and in the same sense that Money is

Thus we see how a clear and distinct understanding of definitions removes all doubts and difficulties. Many persons have found it very hard to understand how Credit can be Capital. But that entirely depends on the definition of Credit, and the definition of Capital. When it is agreed that **anything** which has purchasing power is Wealth: all difficulty vanishes. Because Money is Purchasing Power: and also Credit is Purchasing Power. A trader's Purchasing Power is his Money and his Credit. Therefore his Money and his Credit are equally Wealth.

And as we have seen that the definition of Capital is "Anything which produces a Profit": and that a trader makes a Profit equally by his Money and his Credit: it necessarily follows that he may use his Money and his Credit equally as Capital

Thus the expression that "Credit is Capital," which has called forth so much dissent in recent times, simply means that commerce is carried on by means of Credit, by Bank Notes, Cheques, Bills of Exchange, and other instruments as well as by Money

The meaning of Capital as denoting anything by which a profit can be made is constantly used in the common language of politics. It is scarcely possible to take up a newspaper without seeing that it is said that one party or another makes **Capital** of such and such an event. Thus where one party in the State makes an error: the other party is said to make "Capital" of it: *i.e.*, turn it to their own profit: or when the government achieves a great military or political success, it is said to make "Capital" of it: *i.e.*, turn it to its own profit

Thus Cobden says in a letter—"They have traded for the last fifteen years as a political party on the Irish question: but now that Capital is exhausted"

Hence **Capital** *is* **anything** *whatever which a person trades with, and makes a profit by*

### *There is no such Thing as* **Absolute Capital**

**60.** It has been shown that there is no such thing as Absolute Wealth: that is, there is nothing which is in its own nature, Wealth: and that whether anything is Wealth or not, depends entirely upon Human wants and Desires

So, also, it must be carefully observed that there is no such thing as Absolute Capital

As Mill justly observes, the distinction between Capital and non-Capital does not lie in the **kind** of commodity but in the **Mind** of the owner. That is, that whether anything is Capital or not, in no way depends on the **Nature** of the thing itself, but solely and exclusively on its **Method of Use**

Many writers from an imperfect consideration of the subject say that Capital is simply the accumulation of the products of past labor. But this is a vital error which must be carefully guarded against. Because all the accumulated products of past labor are not Capital: but only that portion of them which is traded with: or used for the purposes of profit

Moreover, many things may be used as Capital which are in no way the accumulated products of past labor. As Senior says—"Economists are agreed that **Whatever** gives a profit is properly termed Capital." Now it has been shown that *any* Economic Quantity may be used as Capital. Not only may many material products be used as Capital which are not the products of past labor, such as the land: but Personal Qualities both in the form of Labor and Credit, may be used as Capital. Now how is Labor itself the accumulated product of past labor? How is Personal Credit the accumulated product of past labor? Also Incorporeal Quantities may be used as Capital, or for the purposes of profit, as well as any material chattels. Now how are Banking Credits, Bank Notes, Cheques, Bills of Exchange, &c., the accumulated product of past labor? In fact, in this great civilised country the enormously greater amount of Capital is purely Personal and Incorporeal

Some statisticians indeed endeavor to estimate the amount of Capital in the country. But it is evident that such attempts are wholly futile. How can they form any estimate of the amount of Capital unless they tell us what they reckon as Capital ? Because it is utterly impossible to estimate the amount of Economic Quantities which are being used as Capital at any given instant. The very same Quantity may be used as Capital at one instant and as Income at the next. And it has been shown that persons trade with, and make Capital of, not only the realised profits of the past, but also the **Expected Profits** of the **Future**

### *On* Fixed *and* Floating, *or* Circulating, Capital

**61.** We have seen that there is no such thing as Absolute Capital : that whether any Economic Quantity is Capital or not, depends entirely on its method of use

But Capital itself may be used in two different ways—

1. The Capitalist may retain the object used as Capital in his own possession, and make a continuous series of profits by its use. Consequently the Capital, supposing it to be worn out, is only replaced with the profits in a series of instalments. Capital used in this way is termed **Fixed Capital**

2. The Capitalist may part with it entirely : and replace the Value of the Capital with a profit in one operation. Hence it goes away from him entirely : and is replaced in one operation. Capital used in this way is termed **Floating**, or **Circulating, Capital**

It must be clearly understood that it is entirely according to the intention of the person who uses it, and the purpose and method in which it is used, that it receives either of these denominations

The same article may be Floating Capital in the hands of one person, and Fixed Capital in the hands of its next possessor : if the first produces it for the purpose of selling it outright, and so replaces the sum expended in producing it in one operation : and the next purchases it, and retains it in his own possession : and only makes a profit by its continuous use

This distinction is often overlooked: and the term Fixed Capital is applied to articles of a certain nature: and the term Floating, or Circulating, Capital to articles of another nature: but this is very erroneous

Thus Smith enumerates four kinds of Fixed Capital—

1. The useful machines and instruments of trade, which facilitate and abridge labor
2. Buildings used for purposes of profit both by their proprietors and by those who pay rent for them for trading purposes.
3. Improvements in land
4. The **Acquired** and **Useful Abilities** of all the members of the society

This enumeration is imperfect, because Smith omits all that stupendous mass of Incorporeal Property which has increased to such a gigantic extent in modern times

Thus if a person invests his Money in the Funds: or in the Shares of a Commercial Company of any sort: or in Railway Debentures: or in Municipal Loans: or the Obligations of other public bodies: or in purchasing the goodwill of a business: or in a professional practice: or in copyrights, or patents: or in any Incorporeal Property which yields a revenue: all these are **Fixed Capital**

Smith also enumerates four kinds of Floating, or Circulating, Capital

1. The Money by means of which the other three are circulated and distributed to their proper Consumers

Under the term Money he includes Bank Notes, and of course Cheques, Bills of Exchange, and other securities for Money. But all these paper documents are merely Rights of action, or Credits: hence Smith expressly includes Credits under the term Floating, or Circulating, Capital

2. The stock of provisions in the hands of the farmers, graziers, butchers, corn merchants, brewers, &c.
3. The materials in the hands of different workpeople to be made up, clothes, furniture, &c.

4. The work which is made and completed, but still remains in the hands of the merchants and manufacturers, but not yet disposed of, or distributed to the proper consumers : such as the finished work in the shop of the smith, cabinet maker, goldsmith, jeweller, china merchant, &c.

It must be carefully observed that Smith's distinction between certain articles as absolutely Fixed Capital : and of other articles as absolutely Circulating Capital : is to a great extent erroneous.

If a person buys land for the purpose of farming it himself : or of letting it out to farmers : or if he buys or builds houses for the purpose of letting them out to tenants : then such land, or houses, are Fixed Capital

But it is quite common for speculators to buy up land, and build houses for the express purpose of selling them again : and so recouping their outlay in one operation. In the hands of such speculators, land and houses so treated are **Circulating Capital**

Some manufacturers build engines which are sold to Railway Companies : or agricultural implements which are sold to farmers : or machinery which is sold to manufacturers. In the hands of the makers, these engines and machinery are **Floating**, or **Circulating, Capital** : because they are made for the purpose of being sold outright : and so changing hands : and their whole price and profit is reaped in one operation. When they come into the hands of the Railway Companies, the farmers, and the manufacturers, they become **Fixed Capital** : because they remain in the possession of their owners, who only recoup themselves gradually for their wear, tear, and deterioration in a continuous series of profits

So, a shipbuilder builds ships and sells them to a Shipping Company : in the hands of the builder, these ships are **Floating Capital** : in the hands of the Company they are **Fixed Capital**

And so many other instances might be quoted

On the other hand, many articles which are usually used as floating capital may become Fixed Capital

Furniture, clothes, and plate are usually Floating Capital : because they are usually made for the purpose of being sold

But sometimes they are retained in the hands of their owners, and let out for hire : and then they are Fixed Capital

There is a class of traders, named Stock Jobbers, who buy Stocks and Shares and Public Securities, with the intention of selling them again with a profit : just as other traders buy and sell material goods : in the hands of these Stock Jobbers these Stocks, Shares, and Securities are **Floating Capital.** But other persons buy these Stocks, Shares, and Securities as a permanent investment, and in the hands of such persons they are **Fixed Capital**

Another class of traders, named Bankers, make a special business of buying Debts, *i.e.*, Discounting Bills of Exchange. The Bills in the portfolio of a banker are exactly like the goods in the shop of a trader. The banker buys Bills of Exchange, which are merchandise, from one set of persons, his own customers, and sells them at a higher price to other persons, namely, the acceptors: and so makes a profit. Hence the Bills in the portfolio of a banker are Floating Capital: exactly as the goods in the shop of a trader are

It is therefore incorrect to apply the terms Floating, or Fixed, Capital absolutely to any articles, whatever their nature may be, unless we know the method in which their owners employ them. And unless an object is incapable of being applied to more than one of these purposes, it is not correct to call it by either name absolutely

There are very few things to which the name of Fixed Capital may be invariably applied. The only class of Economic Quantities which are invariably Fixed Capital are Personal Qualities. Persons cannot devest themselves of their qualities, they can only make an income by their use. Therefore they are necessarily Fixed Capital

On the other hand, Money and all articles of consumption, such as corn, wine, oil, coals, meat, &c., are necessarily **Floating Capital**: because it is not possible to make a profit by them except by absolutely parting with them

Almost all other property is capable of being employed in either way, at the will of its owner: and therefore is Fixed, or Floating, Capital, according to the method in which it is used

## *On the* Three Ambiguities *in the* Theory *of* Credit, *or* Debt

**62.** We have now to notice three perplexities, or Ambiguities, in the Theory of Credit, or Debt, which have been the cause of an immense amount of confusion and misconception, which the reader must carefully observe

### First Ambiguity.—*A* Debt *is not the* Money *owed by the* Debtor, *but the* Abstract Personal Duty *to pay the Money*

I. We have now to explain the meaning of the word **Debt,** about which there is great misconception. It is one of the examples of words, which, in early jurisprudence and classical Latin, meant a **Material** Thing, but has come in the progress of civilisation and jurisprudence to mean solely a **Right** and a **Duty.**

We think it absolutely certain that in classical Latin the word *Debitum* means the **Material** thing, whether Money or any other which is due. And in this we are confirmed by the high authority of Professor H. Nettleship, of Oxford

The idea that the word Debt means the Money due is very common at the present day, and has greatly impeded the due apprehension of the nature of Credit

Many literary and mathematical writers suppose that a Debt is the Money due : or Money in the Debtor's possession to which the Creditor has a Right

This very common error, of which we shall hereafter produce several examples, is expressly provided for in the Digest

It is said[1]—" Obligationum substantia non in eo consistit ut aliquod **Corpus** nostrum faciat : sed ut **Alium** nobis ad stringit ad **Dandum** aliquod, vel **Faciendum,** vel **Prestandum** "

" *The essence of Obligations does not consist in this that it makes any specific* **Goods** *our property : but that it binds some* **Person** *to* **Pay** *us something : or to* **Do** *something : or to* **Guarantee** *something* "

Pothier well says[2]—

" The Right which the Obligation gives the Creditor of proceeding to obtain payment of the thing which the Debtor is obliged to give him, is not a Right in the **Thing** itself (*Jus in re*): it is only a Right against the **Person** of the Debtor for the purpose of compelling him to give it (*Jus ad rem acquirendam*). The thing which the Debtor is obliged to give continues to belong to him: and the Creditor cannot become proprietor of it except by the delivery, real or fictitious, which is made to him by the Debtor in the performance of the Obligation

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[1] *Digest*, 44, 7, 2

[2] *Traité sur les Obligations*

"And till this delivery is made the Creditor has nothing more than the **Right** of demanding the thing: and he has only that Right against the **Person** of the Debtor who has contracted the Obligation

"Hence it follows, that if my Debtor who has contracted the Obligation to give a thing to me, transfers it upon a particular title to a third person, whether by sale, or donation, I cannot demand it from the party who has so acquired it, but only from my Debtor. The reason is, as the Obligation does not, according to our principle, give the Creditor any Right in the thing which is due to me, which I can pursue against the person in whose hands it may be found"

This doctrine is most true and most important. Suppose a Creditor comes to his Debtor and demands payment of his Debt: and the Debtor has the very Money wherewith to pay his Debt in his hand: he may still, nevertheless, give it away, or spend it under the very eyes of his Creditor: and the Creditor has no legal right to prevent him

So Gide says[1]—"A **Debt** is not the **Material** object, the Money: but the **Juridical** object, the **Duty to Pay**"

So Williams says[2]—"Every person who borrows Money on mortgage or not, incurs a Debt or **Personal Obligation** to repay it out of whatever means he possesses"

The distinction is perfectly plain, and of the greatest importance in Economics. If the Creditor has the Right to any specific Money in the Debtor's possession, that would be a diminution of the Debtor's property: he would have no right to spend, or part with it: and there would be only one Economic Quantity in existence—the Money

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[1] *De la Novation*, p. 139

[2] *Law of Personal Property*, p. 304

But as a matter of fact, the whole of the Money remains the Debtor's property, which he can sell, donate, or exchange as he pleases. And also there is the Right, or Property, in the person of the Creditor, which he can sell, or exchange, as he pleases: and which may be sold, or exchanged, any number of times till it is paid off and extinguished. Hence, in this case there are two Economic Quantities in existence, which may each circulate in commerce at the same time

To consider a Debt as a sum of money in the Debtor's possession to which the Creditor has a Right, is to confound the distinction between a **Trustee** and a **Debtor.** A trustee merely *holds* money which is in reality the property of the *Cestui que trust:* it is in no sense whatever his property: he has no right to use it for his own purposes: and, therefore, there is only one, and not two, Economic Quantities in existence

If the Creditor's Right were the Right to a specific sum of Money in the Debtor's possession, it would follow that a Debtor could never be insolvent: because if he had no money, his Creditor could have no Right. But unfortunately this is far from being the case. In too many cases persons are insolvent: *i.e.*, they are under the Duty to pay Money, and have no money to pay it with; but the Creditor's Right to demand exists whether the Debtor has any money to pay it with or not

If the Creditor's Right were the Right to a specific sum of money, it would follow that the Quantity of Credit could never exceed the Quantity of Money: but this is entirely contrary to fact: every Jurist knows perfectly well that Credit is itself a Marketable Commodity, a Merchandise, and the amount of it in existence and circulation in this country is about 100 times the Quantity of Money

Hence the reader must carefully observe that a **Debt** is simply the abstract Personal Duty to pay money, and has no reference to any specific sum of Money

**Second Ambiguity**—*The word* **Debt** *means both the* **Creditor's Right of Action** *and the* **Debtor's Duty to pay**

II. The second Ambiguity is this. It has been shown that the word **Debt** means in the first instance the Debtor's Personal Duty to pay money—and not the money which is due. But it has long been used both in Law and common usage to mean the Creditor's **Right of action** as well: and is thus used as synonymous with **Credit**. And a Creditor's Right of action is termed perfectly indiscriminately a **Credit** and a **Debt**

As has been said above, the word *Debitum* in classical Latin denotes the Material thing, whether Money, or any other, which is owed. But in the Pandects the word **Debitum** is used as synonymous with **Obligatio**: the Bond of Law, or Contract, between the Creditor and the Debtor: and therefore it includes both the Creditor's *Right to Demand* and the Debtor's *Duty to pay*

In classical Latin a Creditor's Right of action was termed **Nomen**. But in course of time while *Obligatio* always continued to mean the *Nexus*, or Contract, between the two parties, the word *Debitum* split up into two parts, and was used to mean both the Creditor's *Right of action* and the Debtor's *Duty to pay*, quite indiscriminately

In the twelfth century the word *Debitum* was commonly used to mean a Right of action. In 1194, Richard I. issued instructions for a judicial visitation on financial matters in which it was ordered—

"Omnia **Debita** Judæorum inbrevientur, terræ, domus, reditus, et possessiones"

"*Let all the* **Debts** *(i.e., Rights of action) of the Jews be scheduled, their lands, houses, rents and possessions*"

"Item quilibet Judæus jurabit super rotulum quod omnia **Debita** sua et vadia, et reditus, et omnes res et possessiones suas inbreviari faciat"

"*Also let every Jew swear that he will make a true return of all his* **Debts** *(Rights of action), pledges, rents, and all his property and possessions*"

In mediæval charters the word **Debitale** was used in the same sense. Thus in one of 1324, it says—

"In omnibus et singulis bonis . . . . . . dominiis, baroniis, censibus, redditualibus, **Debitalibus**, servitutibus, homatgiis"

"*In all and singular goods . . . . . . . lordships, baronies, revenues, rents*, **Debts** (*Rights of action*), *servitudes, homages*"

In another, of 1374, it is said—

"Acquisiverunt reditus, census annuos, et **Debitalia in fœdis** . . . . . quorum redditorum, censuum, et **Debitalium**"

"They have acquired rents, annual revenues, and **Debts** (*Rights of action*) in fee . . . . . . of which rents, revenues, and **Debts** (*Rights of action*)"

A Statute of the City of Placentia, in 1386, clearly shows that Debitum and Nomen were synonymous[1]—

"Nullus homo Plac. emat vel aliqualiter acquirat aliquod **Debitum** vel **Nomen** seu revisamentum contra Comm. Placentiæ."

Thus the words *Debitum* and *Debitale* were already at this period used to mean Rights of action, and as synonymous with *Nomen*, in public instruments: and if they were so used *in public instruments, it is clear that that must long have been their well understood meaning in common usage*

In English Law the word Debt has long been used to mean a Right of action. Thus in the Statute of Acton Burnell, 11 Edward I. (1283), commonly called the Statute of Merchants, it is said—

"Pur ceo qe merchauntz qi avaunt ces houres unt preste lur aver a diverse genz, sunt cheuz en poverte, pur ceo qe il ni aveit pas si redde ley purvewe, par la quele il poeint lur **Dettes** hastivement recoverir

"Le Rei par luy par sun conseil ad ordine e establi, qe marchaunt qi veut estre seur de sa **Dette**

"E si le Meire ne troesse achatur face par renable pris liverer les moebles al Creauzur, desqe a la summe de la **Dette** en allowance de sa **Dette**"

By which it appears that at that time the word **Debt** had already acquired in English law the meaning of a **Right of Action**: a meaning which it has ever since retained, both in Law and common usage

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[1] *Papa d'Amico, Titoli di Credito*, p. 89

So it is said in "Les Termes de la Ley," first published in 1567—

"Dett est un brief que gist lou ascun summe d'argent est due au un par reason d'accompt"

"**Debt** is a **Writ**," &c.

So Ashe says—

"Quel Det, Duty, Chose-in-action, ou Droit"

So in the Act, 46 Geo. III. (1806), c. 125, s. 3, it is enacted that one **Debt**, or **Demand**, may be set off against another

So Williams says—

"Within the class of *Choses-in-action* was comprised a **Right** of growing importance, namely, that of suing for Money due: which Right is all that is called a **Debt**"

"We have seen that a **Debt** was anciently considered as a mere *Right to bring an action against the Debtor*"

"When a **Debt**, or **Demand**, is equitable only"

"**Debts** being formerly considered mere **Rights of Action**"

So as may be seen in any daily paper the executors of deceased persons advertise for any persons who have "**Debts**, Claims or Demands" against the estate to give in a statement of them

Ortolan says[1]—"Sous le premier point de vue le droit personnel se nomme chez nous **Créance**: chez les Romains *Nomen* moins généralement **Creditum**"

Which Messrs. Prichard and Nasmyth translate—

"Under the first point of view a Personal Right is called by us a **Debt**: among the Romans, **Nomen**, less usually **Creditum**."

In which they are right, because *Créance* in French, is the Right of action which a Creditor has against a Debtor: which is as we have seen, the meaning of Debt in English Law

So Major-General Deane, the Commissioner of the Commonwealth, agreed with the Marquis of Argyll that, if he would remain quiet and not disturb the Government, he should "enjoy his liberty, estate, lands, and **Debts,** and whatever duly belonged to him[1]"

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[1] *Généralisation du Droit Romain*, Part II., ch. ii., § 196

So John Bunyan, fearing arrest,[2] made over to his wife "all his goods, chattels, **Debts,** ready money, plate, rings, household stuff, apparel, utensils, brass, pewter, bedding, and all his other substance"

It is so perfectly well known that in English Law the word Debt means both the Creditor's Right of action and the Debtor's Duty to pay, that it is used in both senses in the same Act of Parliament

Thus, in the Supreme Court of Judicature Act, 36 and 37 Vict. (1873), c. 66, s. 28, § 6, it is said—

"Any absolute assignment in writing under the hand of the Assignor of any **Debt** or other legal **Chose-in-action**"

Where the word **Debt** means the Creditor's **Right of Action**

But in the same section, § 1, it is said—"Whose estate may prove to be insufficient for the payment in full of his **Debts** and **Liabilities**"

Where the word Debt means the Debtor's **Duty to Pay**

An administrator is appointed by the Court of the "Goods, Chattels, **Credits**" of the deceased

Thus we see from all these passages that **Creditum = Nomen = Debitum**: and that in Law the words "**Credit**" and "**Debt**" are used synonymously to mean the Creditor's **Right of action**

It is exactly the same in common usage: a person makes his will, bequeathing his **Debts,** *i.e.*, his **Rights of action**

So in the Law of Scotland, **Debts** are included under the title of Movable Rights. And in a Scotch marriage contract it is usual for the bride to transfer to her intended husband "all goods, gear, **Debts,** sums of money, and other movable estate"

Accordingly in the Digest of the Law of Bills of Exchange which we prepared for the Law Digest Commissioners we began with this fundamental definition—

[1] *Burton Hist. of Scotland*, Vol. vii., p. 48

[2] *Froude's Bunyan*, p. 87

"**Credit** or **Debt** in Legal and Commercial [and Economical] **language, means a Right of Action** against a Person for a sum of Money"

We need not give any more examples. The reader must carefully observe that the word **Debt** is used both in English Law and common usage, quite indiscriminately to mean both the Creditor's **Right of action** and the Debtor's **Duty to pay** : and it requires constant vigilance to perceive in which sense it is used

The word **Duty** also originally meant a **Right** : thus the King's Duties meant his Right to levy customs. This meaning appears in the extract from Ashe above cited: but it is seldom used in this sense now

The word **Right** had also this double meaning in English. Thus Lord Shelburne said in the House of Lords—"He would think that America had as good a **Right** to pay taxes as Britain," *i.e.*, it was as much their **Duty** to do so

The word Right is but seldom, if at all, now used int his sense in England at the present day : but it is quite common in Scotland to say—"I have no **Right** to do that": *i.e.*, it is not my **Duty** to do it

The word χρέος in Greek has also this double meaning : it originally meant the actual thing owed : like *Debitum* in Latin : or the Duty to pay it : but the Greek jurists used χρέος to mean the Right of action

Thus Demosthenes says—

"τὴν οὐσίαν ἅπασαν χρέα κατέλιπε"—"*He left all his Property in outstanding Debts, i.e., Rights of action*"

In the Basilica χρέος is used as synonymous with *Nomen, Créance*, a Right of action

So in German the word *Schuld* properly means a Debt or Liability : accordingly *Schuldner* properly means a **Debtor** : but Austin says that *Schuld* has also the double meaning : and that in German Law *Schuldner* is often used to mean the Creditor

In French the words *Droit* and *Dette* are also used in the double sense of the Right and the Duty: but in the Creditor's case it is termed the *Droit* or *Dette Active*: in the Debtor's case it is termed the *Droit* or *Dette Passive*

Thus Littré says—

"**Dettes Actives**: *celles qu'on a le droit d'exiger le payement*"

"**Dettes Passives**: *celles qu'on est obligé de payer*"

**Créance**: Droit d'exiger l'accomplissement d'une obligation: . . . . . . on oppose les droits de créance au droits réels"

That is Personal Rights, or *Jura in personam*, are distinguished from Real Rights, or *Jura in re*

Thus the student must carefully observe that all these words which denote a Contract, or Obligation, between two persons: such as *χρέος*, *Debitum*, *Debitale*, Right, Debt, Duty, *Droit*, *Dette*, *Schuld*: are used quite indiscriminately with respect to both parties: and it requires constant vigilance to determine in which sense they are used

The explanation of this seeming confusion is this: *χρέος* comes from *χρῆ*, it is fit, or ordained: *Debitum* means that which is due: Right, from *rectum*, that which is ordered: and if one person has the Right to demand, and another has the Duty to pay, a sum of money: it is equally fit: due: ordained: and right: that the one person should receive, as that the other should pay: hence they are equally *χρέα*: Debts: Duties: and Rights

On the Continent it is usual to term a Person's Rights, simply his *Actif*: and his Liabilities his *Passif*: the words Droit or Dette being understood: thus in the accounts of a bank its Liabilities are termed its *Passif*, and its assets, its *Actif*

### **Third Ambiguity**: *On the double Meaning of the words* "**Lend**," "**Loan**," "**Borrow**": *or the distinction between the* **Mutuum**, *δάνειον or δάνεισμα*: *and the* **Commodatum**, *or τὸ χρησάμενον*

III. The third Ambiguity has been the cause of immense misconception in modern times on the subject of credit

When persons hear for the first time such an expression as "**Credit** is **Capital**," they are apt to be startled : and they think that such a doctrine is as much as to say that if one person lends another his book, or his watch, or his horse ; that makes two books, or two watches, or two horses

The whole difficulty arises from a want of knowledge of Mercantile Law : and from not being aware that unfortunately the English words "Lend," "Loan," and "Borrow" are ambiguous : and are used to denote two different operations of an essentially distinct nature

It has already been shown that there are two kinds of Right —the Right of Property and the mere Right of Possession or of Use

And there are two distinct kinds of "**Loan**" : the one in which the Right of Possession only for a limited time is given to the "**Borrower**" : but the Right of Property remains in the "**Lender**" : and there is no new creation of Property : and the identical thing "**lent**" is returned to the "**lender**"

The other, in which the "**Borrower**" acquires the actual Right of Property in the thing "**lent**" : and the "**lender**" acquires in exchange for it the Right, or Property, to demand an **equivalent** only for the thing "**lent**," both in quantity and quality : but not the identical thing "**lent**." In this class of "**Loan**" there is always a new creation of Property

1. The **Commodatum** : or *τὸ χρησάμενον*

There are some things which can be lent, and the borrower can enjoy their use without acquiring the actual Property in them : and after having enjoyed their use, he can restore the identical things "lent" to their owner

Thus, if a person "lends" his horse : or a book : or his watch : or his carriage : to his friend : his friend can ride the horse : or read the book : or use the watch or the carriage, without acquiring the Property in them : and after he has enjoyed their use, he can restore the identical horse, or book, or watch, or carriage, to its owner

In such a case the "**lender**" only grants a certain limited Right of "**Possession**" and "**Use**" of the thing lent to the "**borrower**": but he does not cede the Right of Property in it to the "**borrower.**" He retains in himself the Right of Property and Possession in the thing "**lent**": and can reclaim it at any moment he pleases, without any notice to the "borrower." In such cases there is no Sale, or Exchange: and there is no new Property created. In such cases the relation of Creditor and Debtor does not arise between the parties. And there being no Sale, or Exchange, there is no Economic phenomenon: consequently such transactions, not being acts of commerce, do not enter into the Science of Economics

Such a "Loan" is termed in Roman Law a *Commodatum:* and in Greek Law τὸ χρησάμενον: because the "**Use**" only of the thing "**lent**" is granted to the "**borrower:**" but not the "**Property**" in it

2. The **Mutuum**: or τὸ δάνειον, or δάνεισμα

But there is another kind of "**Loan**" in which the things "**lent**" cannot be enjoyed unless they are consumed, destroyed, or alienated

Thus if a person "borrows" such things as bread, wine, coals, oil, meat, or other things of a similar nature, he cannot enjoy their use without consuming or destroying them: and they are lent and borrowed with the knowledge and consent of both parties, for the purpose of being consumed and destroyed

Hence from the very nature of the case, the "**borrower**" must acquire the Right of Property in such things when lent: and what he undertakes to do is to return, not the *identical* things lent, but an **Equivalent** amount of other things of the same nature, equal in quality and quantity to the things "**lent.**"

So when a person "**borrows**" Money, he cannot enjoy its use, unless he is able to exchange it away for other things. Hence the person who borrows Money, must from the very necessity of the case, acquire the Property in it. And what he undertakes to do, is, not to restore the identical Money lent: but an equivalent amount of money, at the stipulated time

So if a person borrows a postage stamp, he can make no use of it without affixing it to a letter: and so destroying it. Hence he must acquire the property in it. And what he undertakes to do is, not to restore the identical stamp lent, but another of equal value

In all cases, therefore, of the "**Loan**" of such things as bread, wine, oil, meat, coals, etc.: Money: and also of Postage Stamps and things of a similar nature: the lender cedes the Property in the thing "**lent**" to the "**borrower**": and he acquires in exchange the Right to demand: and the "**borrower**" incurs the Personal Duty to render: an equivalent amount of things "*lent*": but not the identical things

In all such cases a new Property is created: a Contract, or an Obligation, is created between the Lender and the Borrower: and they stand in the relation of Creditor and Debtor

All such transactions are Sales or Exchanges: they are all acts of commerce: or Economic Phenomena: and they all enter into the Science of Economics

A "Loan" of this nature is termed in Roman Law a **Mutuum**: and in Greek Law a *δάνειον*, or *δάνεισμα*

To contract a loan of this nature is *Mutuare*, or *δανείζειν*

A Loan therefore comprehends two transactions of an essentially distinct nature: but the essential feature of a Loan is that it is always the same person who restores the identical thing "**lent**" or repays an equivalent

The Roman Jurists said that **Mutuum** is derived from *quod de meo tuum fit*—because from being my Property it becomes yours. Modern scholars, however, repudiate this etymology, however plausible it may seem. The Romans, and the Greeks, knew very little of their own language. Modern scholars say that *Mutuum* is connected with *mutare*, to exchange: as *deciduus* is with *decido*: and *dividuus* with *divido*

But though the etymology may be fanciful, as are so many others given by Roman and Greek writers: it exactly expresses the fact. In the Loan of the *Mutuum* there is always an exchange of Properties. In all cases of the *Mutuum*, or the *δάνειον*, the Property in the thing lent is ceded to the borrower; the relation of Creditor and Debtor is created between them: and the Right which the Creditor acquires to demand back an equivalent in exchange for the thing lent is the **Credit**, or **Debt**: or, as Ortolan says, the **Price** of the thing lent

The reader must therefore observe that every Loan of Money whatever, no matter between what parties, public or private, is a **Mutuum**: and is a Sale, or an Exchange: an act of commerce: and therefore an Economic phenomenon

### *Theophilus on the* **Mutuum**, *δάνειον or δάνεισμα: and the* **Commodatum**, *or τό χρησάμενον*

IV. This distinction is so important that we may cite a passage from the paraphrase of the Institutes of Justinian, by Theophilus, one of the Professors of Law who were charged with the compilation of the Institutes, because it is more full and distinct than the corresponding passage in the Institutes—

"A real Obligation is contracted by an act, or by the manual delivery of something counted out: and this includes the **Mutuum**, or the *δάνειον*. A thing is a **Mutuum** where the Property in it passes to the person who receives it: but he is bound to restore to us, not the identical thing delivered, but another of the same Quality and Quantity. I said so that the receiver becomes proprietor of it, that I might exclude the **Commodatum** and the **Depositum**: for in these latter the receiver acquires no Property. But he must be bound to us to exclude the **Donation**: for he who receives one acquires the Property, but is not bound to us. I said he must restore not the identical things lent: but others of a similar Quality and Quantity, that I might not deprive him of the use of the **Mutuum**. For a person takes a *Mutuum*, that he may use the things for his own purposes, and return *others* instead of them. For if he were obliged to give back the same things, it would be useless to borrow them

"But all things are not taken as *Mutua:* but only those which consist in weight, number, and measure. In *weight:* as gold, silver, lead, iron, wax, pitch, tin: in *measure:* such as oil, wine, and corn; in *number:* such as Money: and in short, whatever we deliver with this intent, in number, weight, and measure, so as to bind the receiver to return to us, not the *same* things, but others of the same Nature and Quantity. Whence also it is called *Mutuum:* because it is transferred by me to you with the intent that it should become your Property (*quod de meo tuum fit*)

"But the real Obligation includes **Commodatum** : as if any one were to ask me to lend him a book, and I lent it. . . . . . . But the **Commodatum** differs widely from the **Mutuum.** For the *Mutuum* transfers the Property : but the *Commodatum* does not transfer it : and therefore the borrower (*Commodatarius*) is bound to restore the very thing lent"

So it is said in Roman Law[1]—"But it is called giving a *Mutuum*, because from being my Property it becomes yours (*quod de meo tuum fit*): and therefore if it does not become your Property no Obligation is created"

But on the contrary with respect to the *Commodatum*[2]—"We retain the Property and the possession of the thing lent (*rei commodatæ*) . . . . . . . No one by lending a thing (*commodando*) gives the property in it to him who borrows it"

Thus the whole misconception which is so common among English writers has arisen from the English words "Lend," "Loan" and "Borrow," being used to denote two operations of essentially distinct natures

The French language is equally faulty : the words *louer*, *emprunter*, and *emprunt*, are equally applied to both kinds of Loan

But the distinction is clearly pointed out both in Roman and Greek Law: and the Latin and Greek languages have distinct words for each operation

In the *Code Napoléon* the *Commodatum* is termed *Prêt à usage*[3] and the *Mutuum, Prêt de consommation*[4]

All commercial Loans are *Mutua* and not *Commodata:* every Loan of Money is in reality a Sale or an Exchange : in which a **New Property** is **created**, which is called a **Credit**, or a **Debt.**

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[1] *Digest* xii., 1, 2, 2

[2] *Digest*, xiii., 6, 8, 9

[3] *Code Civil*, Liv. iii., Tit. x., ch. i., sect. i. § 1875

[4] *Ibid*, ch. ii., sect. i. § 1892.

And when the Loan is repaid it is another exchange, by which the new Property is extinguished

No one who had the simplest knowledge of the elementary principles of Roman and Greek Law, or of Mercantile Law, would ever have committed the mistake of confounding the distinction between the Loan of Money and the Loan of an ordinary chattel: such as a horse, or a book, or a watch

Hence those things only can be the subject of a *Mutuum* which consist in pondere, numero, et mensurâ: or which can be estimated generically in weight, number, and measure. Such things are termed in Roman Law **Quantitates**: because equal Quantities of bread, wine, oil, coals, &c., are as good as another equal quantity of the same things of the same quality: or one sum of 100 sovereigns is equal to another sum of 100 sovereigns: or one postage stamp is always equal to another of the same denomination.

But also the Digest says *mutuâ vice funguntur:* one quantity serves the same purpose as another quantity. From this expression mediaeval jurists termed them *Res Fungibiles:* and in modern English Law they are termed *Fungibles*

In English Law the former kind of Loan, or the *Commodatum* is said to be returnable *in specie:* because the identical things lent are returned: the latter kind of Loan, or the *Mutuum,* is said to be returnable *in genere:* because only things of the same nature are returned

It is much to be regretted that the English language has not two separate words to denote these two kinds of Loan: like the Latin and the Greek: because the double meaning of lend, loan, and borrow has been the cause of great misconception among uninformed writers as to the nature of Credit and Banking

### *On the Distinction between a* **Debt** *and a* **Bailment**

**63.** There is still one more very common and most important misconception to be cleared away to complete the subject

There are three classes of Paper Documents which circulate in commerce, and have a superficial resemblance: that is, they are all transferable. Many writers seeing this superficial resemblance consider them all to be of the same nature : and include them under the title of **Credit**. This, however, is a profound and most vital error

These three classes of Instruments, though they have one point in common, namely, being transferable, are yet fundamentally distinct in their nature and effects

These three species of Paper Documents are—

1. Bank Notes, Cheques, Bills of Exchange, Exchequer Bills, Navy Bills, Dividend Warrants, and all other securities for Money. All these are Instruments of **Credit** : and are termed **Valuable Securities** in Law. They are all *Jura in personam :* and are **Negotiable** Instruments
2. Bills of Lading, Dock Warrants, and all other Titles to specific goods. They are termed **Documents of Title** in Law. They are all **Jura in re** : and are **Assignable** Instruments
3. Drafts, or Orders for the payment of Money

In order to understand clearly the fundamental distinction between these three classes of documents we shall explain how each arises

Bank Notes, Cheques, Bills of Exchange, and all Securities for Money arise out of the Sale, or Exchange, of the **Mutuum.** Paper Credit always arises out of a Sale or an Exchange. The goods or Money given in exchange for the Credit become the actual Property of the buyer : and the seller has nothing but a Right of action against the seller. It is the absolute fundamental requisite of all forms of Paper Credit, that they shall be absolutely severed from any specific money. They are even forbidden to be made payable out of any specific fund. They must be nothing but pure abstract Rights against a **Person**, who is bound to pay them without any condition. That is the very circumstance from which they derive their name of **Credit** : because they are only accepted in commerce on the faith, confidence and belief that the Debtor can redeem them when due. Hence they are independent exchangeable Economic Quantities. They are a mass of Exchangeable Property just like any other merchandise. They do not *represent* money, but they are exchangeable for money. They are all part of the Circulating Medium, or Currency: they all affect prices, and produce exactly the same effects as an equal quantity of money. All these Securities for Money arise out of a **Debt**

But **Bills of Lading** and **Dock Warrants** arise out of a transaction of a totally different nature

When a person ships goods on board a vessel he receives from the master a Paper Document acknowledging the receipt of the goods, and promising to deliver the goods to another person, the consignee: or to any one else to whom the consignee may have transferred the document by indorsement. This document is termed a **Bill of Lading**

The shipper of the goods sends the Bill of Lading to the consignee: who directly he receives it, may transfer and assign it to any one else he pleases by indorsement. And so it may be sold, transferred and assigned any number of times exactly like a Bill of Exchange. And the person to whom the Bill is last indorsed may go to the master and demand the goods from him, like the payee of a Bill of Exchange. And the master is bound to deliver the goods to the last indorsee, because they are his Property

Similarly when goods are deposited in a dock warehouse, the dock master gives a Paper Document, or Receipt for them of a similar nature to a Bill of Lading: which document is termed a **Dock Warrant.** This may be sold and transferred any number of times by indorsement like a Bill of Lading or a Bill of Exchange: and whoever buys the Dock Warrant becomes the owner of the goods described in it: and is entitled to demand and receive them from the Dock Master

And there are other Paper Documents of a similar nature

The delivery of such goods in these cases is termed a **Bailment.** The master, or dock master, is merely the Bailee or Trustee of the goods: and he acquires no Property in them. He merely receives the Right of Possession of them for a certain time: and for a specific purpose. He has no right to convert them to his own use: or to deal with them in any way except the one for which they are bailed to him : if he did so, it would be a robbery : and he would be indictable as a *thief.* In such cases no new Property is created. The Property in the goods remains with the shipper, or depositor, and is transferred by him along with the Bill of Lading, or Dock Warrant

From this it follows that Bills of Lading and Dock Warrants are titles to specific goods, and to no others. They form **one** Property with the goods, and cannot be separated from them. Whoever acquires the property in the Bill of Lading, or the Dock Warrant, acquires the property in the very goods described in them. Thus these Paper Documents may be said to *represent* goods : and they travel along with the goods. In every case where a Bill of Lading or a Dock Warrant is offered for sale, or pledge, there must be some specific goods to which it is a title. If there were not, it would be a fraud, and an indictable offence. Every person, therefore, who buys, or takes such an instrument in pledge, knows that he has acquired a title to certain specific goods. Buying the document is only a convenient way of buying the goods themselves

In this case therefore there is no exchange : and therefore no act of commerce, or Economic phenomenon. These documents have no Value in themselves, *i.e.*, they cannot be bought and sold separately from the goods themselves. No one ever spoke of the **Value** of a Bill of Lading, or a Dock Warrant. Such documents are not **Credit** : because the owner does not simply *believe* he can get goods in exchange for them : he *knows* that he has acquired the property in certain specific goods. These Paper Documents are, therefore, nothing in themselves : they are no addition to the general mass of Exchangeable Quantities : they are no part of the Circulating Medium, or Currency : and they do not affect prices in any way

In a similar way, when a person mortgages his house, or land, he actually sells the house or land to the mortgagee. The Mortgage Deed is the deed of sale : and is the title to the house, or land : and cannot be separated from them

Hence all these documents, Bills of Lading, Dock Warrants, Pawnbrokers' tickets, Bills of Sale, Mortgage Deeds, &c., belong to the class of **Jura in re** : and are Real Rights, or Corporeal Property

Bills of Lading and Dock Warrants circulate in commerce equally with Bank Notes and Bills of Exchange: but they circulate in a perfectly different way. Bills of Lading and Dock Warrants always travel along with the goods they represent: and if they are transferred any number of times, it shows that the same goods have been transferred that number of times. But Bills of Exchange and Bank Notes are exchanged against goods, like Money: and if they are transferred any number of times, they circulate an equal amount of goods to themselves at each transfer

Moreover, the law affecting the transfer of these documents is different. All Rights to demand Money follow the law of Money, *i.e.*, when they have once been passed away to an innocent holder in commerce he has acquired a good title to them: and the original owner has lost his *jus vindicandi*

But Bills of Lading and Dock Warrants, being in fact identical with the goods, follow the law of goods. If they have been stolen, and sold or pledged, the owner retains his *jus vindicandi*: and the person who has bought them, or taken them in pledge, however honestly, must render them up to the true owner

Hence it will be seen that it is a vital Economical error to confound the distinction between Bank Notes or Bills of Exchange and Bills of Lading or Dock Warrants

3. The third class of Paper Documents: termed Drafts, or Orders for the payment of Money: also arise out of a Bailment: and hold an intermediate place between Bills of Exchange or Bank Notes and Bills of Lading or Dock Warrants

Public Institutions, including the State, Corporations, and public bodies of various sorts, appoint Treasurers to hold their Money in trust for them. When they give an order for payment on their Treasurer the instrument is termed a **Draft**, or **Order** for the payment of Money

The Treasurer is of course not a Debtor, personally bound to pay the Draft out of his own means; but merely a Trustee of the Money he holds on behalf of his employers: and only liable to pay the Draft in so far as he has funds to meet it. The Draft is, therefore, not a charge against the Person of the Trustee : but a charge against the fund he holds

Bills or Notes are Rights against the Person of the Debtor

Bills of Lading and Dock Warrants are Rights to specific goods

Drafts, or Orders for the payment of Money, are Rights upon an undefined portion of the fund which the Treasurer holds as Trustee for his employers, and involve no personal liability

Moreover, as the fund in charge of the Treasurer is withdrawn from circulation, and locked up in the vaults of the Institution, the Drafts drawn upon it can never be in circulation as well as the Money they relate to. Hence such Drafts do not increase the Circulating Medium or Currency : and they can by no possibility exceed the amount of the fund they relate to

The Economic distinction between these three classes of Paper Documents is important

Bills of Lading, Dock Warrants, and Drafts can never exceed in quantity the goods they represent, or the funds to which they are a claim. But a merchant, or banker, can issue bills, or notes, far exceeding the Money he may possess at any given time: because he is only bound to have Money to meet them on a given day : even if he does pay them in Money. But as a matter of fact in modern commerce Bills and Notes are very rarely indeed paid in Money : but by other methods which will be fully described in a future chapter. The practical result is that the Bills and Notes and other forms of Credit exceed about 100 times the Money they are supposed to represent

### *List of Words which, in* **Classical Latin** *and* **Greek** *mean* **Material** *things : but in* **Juridical Latin** *and* **Greek,** *and in Modern* **Mercantile Law** *mean abstract* **Rights** *and* **Duties**

**64.** Among savage peoples and in archaic jurisprudence Wealth is held exclusively to consist of **Material** possessions : it is acquired by manual force, and only retained by similar means : and there is no, or very little, idea of Abstract Right

But in the progress of civilisation and jurisprudence, Abstract Right comes to predominate over brute force

At first Material possessions only are exchanged and acquire Value : and are alone Wealth : but in the progress of civilisation, Labor acquires Value. Persons want various kinds of Labor and Service from each other, and are willing to pay for them : and then words which at first only included Material possessions are extended so as to include Labor and Services

In the further progress of civilisation and commerce, dealings on Credit take place : and Creditors begin to perceive that they can sell and transfer their Rights against their Debtors, and in fact use them as Money so as to increase their trade : and they soon begin to insist on their right to do so. Abstract Rights therefore come to be exchangeable, or saleable Commodities, like Money

Hence the meaning of many words which originally denoted Material things, and had to be extended so as to include Labor and Services, is still further extended to include Abstract Rights of all sorts : in fact, to include everything which possesses the quality of Exchangeability : or which can be bought and sold, or exchanged : or whose Value can be measured in Money

Moreover, when men began to emerge from the lowest stage of barbarism and savagery, and came under some sort of settled government, it began to be discovered that it was better that disputes should be settled among them by the judgment of their superiors, and not by brute violence. Accordingly, they brought their disputes before their kings who gave a Judgment in each case as it arose. Homer[1] states it as a sign of the utter barbarism of the Clyclopes

*τοῖσιν δ' οὔτ' ἀγοραὶ βουληφόροι οὔτε θέμιστες*

These men have neither meetings in council nor Judgments: but they dwell in hollow caves on the tops of the mountains. Each one rules his wife and children : and they pay no heed to one another

These Themistes were not customs or laws, but in process of time they hardened into customs, and still later they were developed into a vast science of Jurisprudence

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[1] *Odyssey*, ix., 112

When these Judgments had developed into customs, and finally into Jurisprudence, men were prohibited from deciding their claims to possessions by brute violence and force, and were compelled to bring them before Officials of the State who adjudicated on their Rights by fixed Law

When this became established, they transferred their ideas from the material possessions themselves to the Rights to them: and a whole class of words which in classical Latin and Greek meant material possessions, have in Roman and Greek Jurisprudence come to mean exclusively Rights and Duties without any reference to material things at all

So the most advanced Jurists have shown that Jurisprudence has nothing to do with material things, but only with the Rights to them

We must therefore bring Economics up abreast of advanced Jurisprudence, and understand that Economics has nothing to do with material commodities, their qualities or their uses, but only with the Rights to them. And in fact, the most colossal branches of modern commerce consist entirely in the Exchanges of Abstract Rights which have no relation to any material commodities

We have already shown that the only true definition of Wealth is an Exchangeable Right

So also Williams says[1]—" A man's whole 'Estate' [or Wealth] is equivalent to all his 'Property': it includes all his valuable Rights"

The words to which we have alluded are—

1. **Mancipium.** In early Latin **Mancipium** meant Material possessions, which could be grasped with the hand

In process of time **Mancipium** came to mean **Absolute Ownership**

Afterwards **Dominium** was used to mean **Absolute Ownership**: and was never applied to material possessions

Later still **Proprietas** was also used to mean Absolute ownership, as synonymous with *Dominium*: and was never applied to material possessions

2. **Pecunia.** Originally *Pecunia* meant material Money only, because it was stamped with an ox

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[1] *Principles of the Law of Real Property*, p. 8

But in Roman Law **Pecunia** is expressly declared to comprehend not only Money itself: but every other species of Property which can be valued in Money: and includes Abstract Rights

Similarly χρήματα originally meant material wealth: but Aristotle defines it to mean anything whatever which can be valued in Money: thus the author of the *Eryxias* extended it to include Labor and Services: and in Greek Law it is expressly declared to include Abstract Rights

3. **Bona.** Originally **Bona** meant material goods and chattels: but in Roman Law *Bona* means all Property: including Abstract Rights

So πράγματα, goods and chattels, in Greek Law is declared to include Abstract Rights

So also ἀγαθά in Greek law means goods and chattels: but Demosthenes includes Personal Credit under ἀγαθά, and under ἀφορμή, Capital

4. **Res.** Originally **Res** meant only Material Wealth: chiefly land and cattle

But in Roman Law, **Res** includes everything to which a person has a Right: and comprehends Material things: Labor, Services, and Personal Character: and also Abstract Rights

Material Property is termed *Res Corporales:* Abstract Rights are termed *Res Incorporales*

5. **Merx.** Originally **Merx** meant Material goods which are bought and sold

But in Roman Law **Merx** means anything whatever which can be bought and sold: and includes Abstract Rights

6. **Oἶκος.** It is sometimes supposed that οἶκος means a house only

But in the whole range of Greek literature from Homer to Ammonius, οἶκος means a person's whole property, estate, or possessions of every sort: and includes Abstract Rights

In Attic Law οἶκος is the technical term denoting a person's whole substance or estate

Hence Economics is the Science which treats of the Laws of Wealth

7. **Creditum.** In Classical Latin **Creditum** means the material thing which is lent: whether Money or anything else: and thus includes both kinds of Loan: both the *Mutuum* and the *Commodatum:* and the word is also used in this sense in the Pandects

In Roman Law Property which is lent to a person so that it becomes his property: like money, corn, wine, oil, &c.: is termed a **Mutuum**

Property which is lent to a person so that he is only allowed to **Use** it: but does not acquire the Property in it, which remains in the Lender, is termed a **Commodatum**

But in Roman Law **Creditum** came to mean the Creditor's Personal Right of action against his Debtor: and is thus synonymous with *Nomen*

In modern Law, Commerce, and Economics, Credit primarily means the Mercantile character which a person enjoys, so that he can purchase goods, &c., without paying actual Money for them: but by giving his promise to pay at a future time: and this Credit is included under the term Wealth, by Demosthenes and all modern Economists

When a person who enjoys confidence makes a purchase in this way, he creates a Right of action against himself. And this Right of action is termed a **Credit**; in French, a *Créance:* or a **Debt**

8. **Debitum.** In classical Latin **Debitum** means the actual Material thing due

In Roman Law, **Debitum** is used as synonymous with **Obligatio**: which is the *Nexus,* Contract, or Bond of Law, between two persons, by which the one has the Right to demand, and the other has the Duty to pay, or do, something

In process of time the word **Debitum** split up into two parts: and was used indifferently to denote the Creditor's Right of action, and the Debtor's duty to pay, separately

In mediæval Latin, **Debitum** was used to mean the Creditor's Right of action, and was thus synonymous with *Nomen*

In modern English Law and common usage, the word **Debt** is used quite indiscriminately to mean the Creditor's Right of action as well as the Debtor's Duty to pay: and has no reference to any Money or other Chattel

In modern English Law and common usage, the words **Credit** and **Debt** are used quite indiscriminately to mean the Creditor's Right of action

And the word **Debt** is used quite indiscriminately to mean the Creditor's Right of action and the Debtor's Duty to pay

So χρέος in Greek meant originally the material thing due

But in Demosthenes, and the Basilica, it is used to mean the Creditor's Right of action: and also the Debtor's Duty to pay

9. **Depositum.** In classical Latin and in Roman Law, **Depositum** means anything whatever which is placed in a person's care and custody for the sole purpose of safe keeping: and of which he is a mere Bailee, or Trustee: and in which he acquires no Property: and of which he can make no use

But in the technical language of modern Banking, a Deposit is a Banking Credit: it is the Right of action which a banker creates against himself in his books, as the Price of Money, Bills of Exchange, and other securities: it is not a banker's Asset, but a banker's Liability: it is synonymous with an **Issue**

## *Summary of* Definitions

**65.** The reader will find it useful to have the results of the preceding investigations condensed in a summary

1. **Economics** is the Science of **Exchanges** or of **Commerce**: in its widest extent: and in all its forms and varieties: it is sometimes called the Science of Wealth: or the Theory of **Value.**

Economics may be defined to be *the Science which treats of the Laws which govern the Relations of Exchangeable Quantities*

**Wealth** is anything whatever which can be bought and sold: or exchanged: or whose Value can be measured in Money: or which has Purchasing Power

2. A **Quantity** is anything which can be measured

An **Economic Quantity** is anything whatever which can be bought and sold : or exchanged : or whose value can be measured in Money

3. Wealth, Economic or Exchangeable Quantities are of three distinct Forms or Orders

(*a*) Material things of all kinds
(*b*) Personal Qualities : both in the form of Labor and Credit
(*c*) Abstract Rights

These three Orders of Quantities can be exchanged in Six different ways

These Six different kinds of Exchange constitute Commerce in its widest extent : and in all its forms and varieties : they constitute the Science of **Pure, or Analytical, Economics**

4. **Property** is not a Thing but a Right : it includes all the Rights which can be exercised over anything : it means absolute Ownership

Hence Wealth, Economic or Exchangeable Quantities, consist exclusively of Exchangeable **Rights**

5. **Jurisprudence** is the Science of Rights

6. **Economics** is the Science which treats of the **Exchanges of Rights**

Economic Quantities are of Three orders—

(*a*) Property, or Rights to things which have already come into possession
(*b*) Property, or Rights to Labor or Services
(*c*) Property, or Rights to things which will only come into possession at some future time

**Rights** to things which have already come into possession are **Inverse** and **Opposite** to **Rights** to things which will only come into possession at a future time

Hence if **Rights** to things which have already come into possession are termed **Positive Economic Quantities** : **Rights** to things which will only come into possession at some future time may be termed **Negative Economic Quantities**

**Rights** to **Material** Things are termed **Material or Corporeal Property**

**Rights** to **Labor** and **Services** are termed **Immaterial Property.**

**Rights** to **Abstract Rights** are termed **Incorporeal Property.**

7. Every Sum of Money is equivalent to a quantity of Material things: or to a quantity of Labor or Services: or to the **Sum** of the **Present Values** of an Infinite series of **Future Payments**

8. **Rights** are divided into Rights to specific things, termed **Jura in re**: and **Rights** against **Persons**, termed **Jura in Personam**

9. **Value** is the Exchangeable Relation which exists at any moment between any two Economic Quantities

The Value of any Economic Quantity is any **other** Economic Quantity for which it can be exchanged at any moment

10. **Money** is anything whatever which a Debtor can **compel** a Creditor to accept in payment of a Debt: it is also called **Legal Tender**

11. **Money** is a **Right** or **Title** to obtain some equivalent for a product, or service, rendered

12. A **Credit** is primarily the confidence which a trader enjoys so as to be able to purchase commodities by giving a Promise to pay in future, instead of actual payment

A **Credit** is the Right of action which a person who has sold goods "on Credit" receives in exchange for them, to demand Payment in future: it is termed in French a *Créance*

13. The **Function** of **Credit** is to bring into Commerce the **Present Values** of **Future Payments**

14. **Barter** is the Exchange of Material Products

15. **Sale** or **Circulation** is an Exchange, in which one or both of the Quantities exchanged is **Money** or **Credit**

16. **Exchange** is where Quantities of a like nature are exchanged: either commodities for commodities: or Money or Credit for Money or Credit

17. The **Circulating Medium** is the Medium by which Sales, or Circulation, are effected: it comprehends Money and Credit in all its forms, both written and unwritten

18. **Currency** in Law is the **attribute** which appertains to some things of which the Property passes by delivery: in strict Law it includes Money and all *written* securities for Money: as a

technical term in Economics, it is synonymous with **Circulating Medium**: and includes Money and Credit, or Debt, in all its forms, both written and unwritten

**19.** The **Channel of Circulation** means all the Money and Credit, or Debt, existing at any time

**20.** **Price** is the quantity of **Money** or **Credit,** or Debt, which is given to purchase anything

**21.** **Interest** is the Profit on a Loan of Money when paid at the expiry of the Loan

**22.** **Discount** is the Profit on a Loan of Money when retained at the time of the advance

**23.** **Rate** *of* **Interest** or **Discount** is the ratio of the Profit to the Principal of a Loan by way of Interest, or Discount, made in some given time

**24.** Production is placing any Economic Quantity in the market, and offering it for Sale: thereby bringing it into Commerce

**25.** **Consumption,** in French *Consommation*, is purchasing any Economic Quantity for use and enjoyment: and thereby taking it out of Commerce

**26.** A **Product** is any Economic Quantity which is offered for Sale

**27.** There are three different classes of Producers—

(*a*) Agricultural Producers
(*b*) Manufacturing Producers
(*c*) Commercial Producers

Commerce, or Circulation, is one form of Production

**28.** **Payment** means anything whatever which is accepted in exchange for anything else

**29.** **Satisfaction** is anything whatever which is accepted as the final closing of a transaction

**30.** **Capital** is an Economic Quantity which is used so as to produce a Profit

Any Economic Quantity may be used as Capital

**31.** Capital may increase in two ways—

(*a*) By Increase of Quantity
(*b*) By Commerce or Exchange

**32.** **Capital** is said to be **Fixed** when it remains in the possession of the Capitalist, and he only derives a revenue from its use

**Capital** is said to be **Floating** or **Circulating** when the Capitalist parts with it entirely in one operation : and the Value of it, and the Profit, are restored to him in the Price of the product

**33.** There are **Three Ambiguities** in the Theory of Credit or Debt

(*a*) *First Ambiguity.* A Debt is not the Money due from the Debtor : but the Abstract **Personal Duty** to pay money

(*b*) *Second Ambiguity.* The word **Debt** means both the Creditor's Right of action and the Debtor's Duty to pay

(*c*) *Third Ambiguity.* The words "**Loan**" "Lend" and "Borrow" have two distinct meanings : in one of which Credit is created, and in the other it is not : which are distinguished in Latin as **Mutuum** and **Commodatum** : in Greek as *δάνειον*, or *δάνεισμα*, and *τὸ χρησάμενον*

**34.** A **Loan** of Money is a **Sale,** or an Exchange, in which the Property in the Money passes to the "Borrower" : and in exchange for it the "Lender" receives a Right of action to demand repayment at a future time : this Right of action is the Price of the Money : and is termed a **Credit** or **Debt**

**35.** A **Bailment** is where any Property is delivered to the care of a person for a specific purpose : such as to keep carefully, or to carry from one place to another by sea or land : the Bailee acquires no Property in it, nor can he use it in any way for his own purposes

**36.** **Bank Notes** and **Bills of Exchange** always arise out of **Sales** either of Money or Credit, or Goods. They are not Titles to any Specific Money : they are solely Rights against a **Person** : they are *Jura in personam:* and are termed in Law **Valuable Securities**

**Bills of Lading** and **Dock Warrants** always arise out of a **Bailment** : they are always Titles to specific goods : they are *Jura in re:* and are termed in Law **Documents of Title**

**Drafts** are Orders for the payment of Money addressed by the owner to a person who holds the Money as a Trustee or Treasurer.

# CHAPTER II

# THE THEORY OF VALUE

### *Preliminary Remarks*

It has been shown in the preceding chapter that ancient writers for 1,300 years unanimously held that Exchangeability is the sole essence and principle of Wealth, and that whatever can be bought and sold, or exchanged : or whose Value can be measured in money : is Wealth : whatever its form or its nature may be

The ancients also showed that there are three distinct orders of Quantities that satisfy these conditions : (1) Material things : (2) Personal Qualities, both in the form of Labor and Credit : (3) Abstract Rights

After centuries of controversy, modern writers have at length come to the same conclusion as the ancients

And as it is a matter of positive knowledge that there is nothing beyond these three Orders of Quantities which can be bought and sold, or exchanged : or whose Value can be measured in money : the Science is now complete. Consequently having generalised all our Fundamental Concepts, so as to grasp all these three Orders of Quantities : by the Laws of Inductive Logic, we are sure that our Concepts cannot be overthrown or modified

It has been shown that Value denotes the relation between any two Economic Quantities : and that **The Value** of any Economic Quantity is any **Other** Economic Quantity for which it can be exchanged at any instant

Hence the **Theory** *of* **Value** is the investigation of the **Laws** *which govern the* **Relations** *of these* **Exchangeable Quantities**

The complete Theory of Value comprehends—

1. The Definition of Value
2. The Origin, Cause, or Form, of Value
3. The General Law of Value: or the General Equation of Economics

On each of these three subjects there has been an immense amount of controversy: which we have chiefly disposed of in the Introduction: so that we have endeavored to reduce it to a minimum in the present chapter

## Section I

### *The* Definition *of* Value

**1. Value,** in its original sense, is a **Desire** or **Affection of the Mind,** towards some object: It means **Esteem,** or **Estimation.**

As Gloster says, in *Lear*—"In the division of the Kingdom, it appears not which of the Dukes he **Values** most"

So in *Troilus and Cressida,* Troilus says—

"For what is aught, but as 'tis **Valued**"?

So Henry Esmond says—"There is some particular prize we all of us **Value**: and that every man of spirit will venture his life for"

So J. B. Say says—"**Value** is a **Moral Quality**"

And other instances too numerous to cite

Now a person may Value his friend very highly: or he may Value some object in his possession very highly: or he may desire to obtain something which is in some one else's possession very much. But as Economics is the Science of Commerce, or Exchanges, such Value does not enter into Economics

To bring Value into Economics, a person must not only have an estimate of some object, or property, of his own: but he must have a Desire, or Value, for something which is in some one else's possession: and be willing to give some of his own property in exchange for it

One person, however, cannot acquire an object which another person possesses, without giving him in exchange for it some object which that other person **Desires, Demands,** and **Values**

Hence, *Economic Value necessarily requires the* **Concurrence** *of* **Two Minds**

If a person brought a cargo of tobacco to a nation of non-smokers, it would have no **Value** among them: because no one among them would **Desire or Demand** it

If a person brought a cargo of wine to a nation of teetotallers: it would have no **Value**: because no one among them would Desire, or Demand it: and therefore no one would buy it

It would be vain for farmers to breed cattle or herds among a nation of vegetarians : because no one would Desire them ; there would be no **Demand** for them : and therefore no one would buy them

However much a person may wish to sell his product, he cannot do so unless some one else will buy it : and in that case it would have no Economic Value. Hence, for an exchange to take place, there must be the Reciprocal **Desire,** or **Demand,** of Two persons, each for the product of the other

When, however, two persons each **Desire** or **Demand** to obtain the product of the other : and when they have agreed as to the quantity of their own product which they will give in exchange to acquire the product of the other : each product may be said to be the **Measure** of the **Desire** of its owner to acquire the product of the other. The two products, therefore, Measure the Desire, Demand, or **Value** of their respective owners to obtain the product of the other : and when two persons have agreed upon the Quantities of their products to be exchanged : the two products are said to be **Equal Value** : each product is the **Value,** or the **Demand,** for the other. And this is the only kind of Value with which Economics is concerned

Hence in every phenomenon of Economic Value, or Exchange, there are two **Quantities** and two **Demands** : and it is evident that the true Origin or Cause of Value is **Reciprocal Demand**

Thus let A and B be any two Economic Quantities which are exchanged at any instant : then we may say—

A *valet* B

or, A is of the value of B,

or, A = B

Then B is the value of A in terms of B : and A is the value of B in terms of A. And, therefore, Value is the Sign of Equality between any two Economic Quantities

Thus Aristotle says[1]—

"ἡ δ' ἀξία λέγεται πρὸς τὰ ἐκτὸς ἀγαθά"

"*Now the term* **Value** *is used in reference to* **External** *things*"

So it is said in Roman Law—

"Res tanti Valet quanti vendi potest"

"*The value of a thing is what it can be sold for*"

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[1] *Nicomach, Ethics,* B. IV., c. 3

The Greek word for Value is ἀξία : which is derived from ἄγω, one of whose meanings is to **Weigh**, or be of the weight of

Thus Demosthenes, speaking of some golden goblets, says[1]—

" ἄγουσα ἑκάστη μνᾶν "—" *Each one weighing a mina* "

And he says of the sword of Mardonius[2]—" ὃς ἦγε τριακοσίους δαρεικούς "—" *Which weighed three hundred Darics* "

So Homer says[3]—

" κὰδ δὲ λέβητ᾽ ἄπυρον, βοὸς ἄξιον, ἀνθεμόεντα
θῆκ᾽ ἐς ἀγῶνα φέρων "

" *And he offered, too, as a prize, a new caldron, ornamented with flowers, worth an ox* "

Hence ἀξία meant Equality, weight for weight : as when two quantities placed in a balance are of equal weight

So in Latin *æstimatio* means exactly the same as ἀξία : it means the quantity of Money (*æs*) given for anything

Thus Cicero[4] speaks of—" *æstimatio frumenti* "—" *The Value of the corn to be furnished* "

So Cæsar[5] speaks of—" *æstimatio rerum et possessionum* "— " *The Value of their goods and chattels* "

So Catullus says, 12, 11—

"Quod me non movet æstimatione"

" *Which does not affect me on account of its Value* "

So Value was also expressed by *ponderare*, and *pendere*, to weigh

So Morocco says[6]—

" Pause there, Morocco,
And Weigh thy Value with an even hand "

So Portia warns Shylock[7]—

" If the scale do turn
But in the *æstimation* of a hair "

*i.e.*, by the weight of a hair

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[1] *Against Androtion*, 617, 21 [2] *Against Timocrates*, 741, 7 [3] *Iliad*, XXIII., 885 [4] *Ver.* 2, 53 [5] *Bell. Civil.*, 3, 1 [6] *Merchant of Venice*, *Act* II., *sc.* 7 [7] *Ibid.* *Act* IV., *sc.* 1

So Le Trosne says[1] that Value is a new quality which products acquire when men live in society

" Products acquire, then, in the social state, which arises from the community of men among each other, a new Quality. This new Quality is **Value** : which makes Products become Wealth

" **Value** consists in the **Ratio of Exchange,** which takes place between such and such a product : between such a Quantity of one product and such a Quantity of another product

" **Price** is the expression of **Value** : it is not separate in Exchange : each thing is reciprocally the price of the merchandise : in a Sale the Price is the Money "

Hence it is clear that Value is a **Ratio,** or an **Equation** : like Distance and an Equation, it necessarily requires two objects.

The Value of anything is always something **external** to itself. Hence a single object cannot have Economic Value. A single object cannot be Equal, or Distant. If an object is said to be Equal or Distant, we must ask—Equal to what ? or, Distant from what ? So, if any Quantity is said to have Value : we must ask—Value in what ? And as it is absurd to speak of Absolute or Intrinsic Distance ; or Absolute or Intrinsic Equality : so it is equally absurd to speak of Absolute or Intrinsic Value

It is impossible to predicate that any Quantity has Value, without at the same time implying that it can be exchanged for something else : and of course everything it can be exchanged for is its Value in that commodity. Hence any Economic Quantity has as many Values as Quantities it can be exchanged for : and if it can be exchanged for nothing it has no Value

### Examples *of* Value

**2.** Any Economic Quantity may have Value in terms of any other

Suppose that A as above is ten guineas : then B may be any one of the other three species of Economic Quantities. It may be a watch : or so much corn : or wine : or clothes : or any other material chattel

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[1] *De l'Intérêt Sociale*, ch. I., sec. 4

Or it may be so much Labor, Instruction, or Amusement, or Service

Or it may be a Right of action, or a Debt: or the Funds: or a Copyright: or any other Abstract Right

Each of these species of property is of the Value of ten guineas: and it follows that each of them is equal in Value to the other: because, *Things which are equal to the same thing are equal to each other*

The Value of the Money in the pockets of the public is the products, services, and Rights it can purchase. The Value of the goods in the warehouses of merchants and traders is the Money in the pockets of the public

The Value of an Incorporeal Right is the thing promised which may be demanded

The Value of a £5 Note is five sovereigns: the Value of a postage stamp is the carriage of a letter: the Value of a Railway Ticket is the journey: the Value of an Order to see the play, is seeing the play: the Value of a Promise to cut a man's hair is the cutting of the hair: the Value of an Order for milk, bread, wine, soup, coals, &c., is the milk, bread, wine, &c.

If I want a loaf of bread which costs a shilling: what difference does it make to me whether I have a shilling, or the Promise of the baker to give me a loaf? It is clear that in this case the Shilling and the Promise are of exactly the same Value to me

Suppose that the price of cutting a man's hair is a Shilling: what difference does it make to me whether I have a Shilling, or the Promise of the hairdresser to cut my hair? In this case it is clear that the Shilling and the Promise are exactly equal Value to me

In short, in the case of every product and service, the Money to purchase it with, and a promise to render the product, or service, are of exactly equal Value in each separate case

Each separate tradesman of course only promises to render one particular product, or service: and as the product, or service, is not demandable from any one else: each Promise has only **Particular** Value: and as that person may become bankrupt, or die: the Promise has only **Precarious** Value

Now what is Money by the unanimous consent of Economists? It is nothing but a general Right, or Title, to demand a product or service, from any person who is in the habit of rendering them at any time: and as there is always some person who can render them, if another cannot: **Money** has **General** and **Permanent Value:** while each of these Promises has only **Particular** and **Precarious Value**

Each of these separate Rights, then, is of exactly the same Nature as Money: but it is of an inferior degree. But they are, each of them, Economic Quantities, or Wealth; for the very same reason that Money is. Is it not clear that if a person had his pockets full of Promises by solvent persons to render him all the products and services he might require, he would be exactly as Wealthy as if he had so much Money? And he can always sell, or exchange, any of these orders for orders for a different thing. Hence we see the perfect justice of the doctrine of all Jurists that **Rights** are **Wealth**

### *On* Negative Values

**3.** Value, then, being the Desire, or Affection of the **Mind,** towards some object, may be of two forms: either the Desire to **Acquire** some object, or the Desire to **Get rid** of it

As these Desires are Inverse and Opposite, they may be denoted by opposite signs; if the Desire to obtain something be termed **Positive** Value: the Desire to get rid of something may be termed **Negative** Value

Thus if we consider a piece of land just in the fit state to be cultivated, to be in the state 0: it may be covered with primeval forest, with marshes and fens, with jungle, and huge boulders: or any other obstructions to cultivation. It may require a considerable sum of money to clear away all these obstructions and bring it into a fit state for cultivation, which we have denoted by 0: the sum necessary to clear away all these obstructions, and bring it into the state 0, may be termed its **Negative Value**

So when it is intended to build a street of improved houses, the ground when it is in a state fit to be built upon, may be denoted by 0 : but it may be covered with old buildings, which it is necessary to clear away before it is fit to be built upon : the sum necessary to be spent in clearing away these old buildings, and bringing it into a state for the erection of new ones, may be termed its **Negative Value**

So if the state of a person in health be denoted by 0 : he may fall into illness and require the services of a physician : or he may meet with an accident and require the services of a surgeon to bring him into a state of health. As the fees paid to the physician or surgeon are paid for removing obstructions to health : they may be termed **Negative Values**

If all people were perfectly honest and never invaded the Rights of other people, a very large portion of the fees paid to members of the legal profession would be saved: if we consider the state of a person in possession of his Rights as 0 : all the sums expended in defending, maintaining, and recovering his Rights are spent in removing the obstructions to his enjoyment of his Rights : and may be termed a **Negative Value**

If we consider persons in the enjoyment of perfect security as to their persons and property as 0 : and if people were perfectly honest and never attacked their neighbours' persons and property, there would be no use for the police : hence all sums spent on the police, which are spent merely for the purpose of warding off attacks on person and property, may be termed a **Negative Value.**

If the reign of universal peace had come, and nations did not attack one another : the enormous armaments by sea and land which weigh down the population and finances of all European nations might be saved. So all the sums spent by nations on their fleets and armies are **Negative Values**

So many other instances of *Negative Value* might be cited

Now it is evident that all the sums spent on Negative Values, or on removing obstructions, are just so much subtracted from Positive Values, or the acquirement of Wealth, or enjoyments

We thus see what a gigantic obstruction to progress and Wealth these European armaments are : and what an immense advantage in progress of Wealth it is to America to be free from them : and to devote all the money and people employed in Europe on Negative Values to the increase of Positive Values

It was the observation that there are two kinds of Value, Positive Value and Negative Value, to which we first drew attention, which led Stanley Jevons, as he acknowledged, to designate Economics by the somewhat fantastic title, as the Calculus of Pleasure and Pain

### *There may be a* **General Rise** *or* **Fall** *of* **Prices**: *but not of* **Values**

**4.** Price is the Value of any Economic Quantity in Money or Credit. Now if Money or Credit be very greatly increased, or decreased, in Quantity, the Prices of all other Economic Quantities may rise or fall: but they will still preserve their relations among each other

If a loaf of bread and a pound of meat each cost a shilling: and if in consequence of a great increase in the Quantity of Money, or Credit, they each rise to two shillings: or if in consequence of a great decrease in the Quantity of Money, or Credit, they each fall to sixpence: the loaf of bread is still of the Value of a pound of meat

Hence there may be a general Rise, or a general Fall of Prices

But there can be no such thing as a general Rise, or a general Fall, in **Values**. Everything can no more rise or fall in Value with respect to everything else, than, as Mill says, a dozen runners can each outrun the rest: or a hundred trees can each overtop each other

To suppose that all things could rise relatively to each other would be to realise Pat's idea of society, where every one is as good as his neighbour, and a great deal better, too

The opposite case of everything falling in Value with respect to everything else would be analogous to every one thinking himself inferior to every one else: which, according to human nature and St. Paul, would be an impossible case

### **Nothing** *can have* **Fixed Value** *unless* **Everything** *has* **Fixed Value**

**5.** As Value is the Ratio in which any two Quantities will exchange, it is clear that the Value of A with respect to B varies directly as B : that is, that it increases or decreases according to the greater or less Quantity of B that A can purchase. And the Value of B in terms of A varies directly as A : that is, it increases or decreases according as B can purchase more or less of A

It is also clear that if from any cause whatever, the Value, or Ratio, between A and B has changed : the Value of both of them has changed. It is manifestly as absurd to say that the Value of A has changed with respect to B : but the Value of B has remained the same : as it would be to say that a railway station has remained at the same distance from a train, while the train has increased its distance from the station

Moreover it is as absurd to say that a Quantity has changed its own Value : or kept its own Value fixed : without stating the Quantities with respect to which its Value has changed or remained fixed : as it would be to say that an object has changed or preserved its Distance, or its Ratio, fixed : without saying its Distance from what : or its Ratio to what

Hence it is clear that nothing can have **Fixed, or Invariable Value** : unless everything else has Fixed and Invariable Value as well. Because, though a Quantity may retain its Value unchanged with respect to a certain number of Quantities : yet if its Value has changed with respect to other Quantities : its Value has changed

From this it will be seen that it is utterly futile to seek for a Currency, or Circulating Medium, of Fixed or Invariable Value

## Section II

### *On the* Origin, Source, *or* Cause *of* Value

**6.** We now come to the second branch of our inquiry—What is the **Origin, Source,** or **Cause,** of **Value** ? Or, in the language of Bacon—What is the **Form of Value** ? And whence does it originate ?

Now, when we are to search for the **Cause** of Value, it is necessary to understand what we are searching for. There are three distinct orders of Quantities, each containing many varieties, which all have Value. We have to discover some **Single** Cause which is common to them all: and ascertain what that Single cause is by genuine induction

Bacon says[1]—" But the Induction which is to be available for the discovery and demonstration of sciences and arts, must analyse nature by proper rejections and exclusions : and then after a sufficient number of **Negatives,** come to a conclusion on the Affirmative instances "

Also[2]—" What the sciences stand in need of is a form of Induction which shall analyse experience, and take it to pieces and by a due process of exclusion and rejection, lead to an inevitable conclusion "

The first step in this process of Induction is to make a complete collection of all the different kinds of Quantities, of whatever nature they may be, which have Value[3]—" For whoever is acquainted with Forms [*i.e.*, Causes] embraces the unity of nature in substances the most unlike. From the discovery of Forms [Causes] results truth in Theory and freedom in Practice."

Bacon earnestly inculcates as the foundation of all true science a careful collection of all kinds of instances in which the given nature is found[1]—"The investigation of Forms [Causes] proceeds thus: a nature [such as Value] being given, we must first of all have a presentation before the understanding of all known instances which agree in the same nature *though in substances the most unlike:* and such collection must be made in the manner of history, without premature theory"

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[1] *Nov. Org.*, Bk. I., Aph. 105

[2] *Distributio Operis*

[3] *Nov. Org.*, Bk. II., Aph. 3

Bacon then exemplifies his method by an investigation into the Form, or Cause, of Heat. He gives tables of the divers instances agreeing in the nature of Heat: also where it appears in different degrees[2]—"The work and effect of these tables I call the presentation of instances to the understanding: which presentation having been made, Induction itself must be set to work: for the problem is upon a review of instances, all and each, to find such a nature as is always present or absent with the given nature: and always increases and decreases with it: and which is, as I have said, a particular case of a more general nature

"We must, therefore, make a complete solution and separation of nature, not, indeed, by fire: but by the **Mind**, which is a kind of divine fire. The first work, therefore, of true Induction (so far as the discovery of causes) is the rejection or exclusion of the several natures which are not found in some instances where the given nature is present: and are found in some instances where the given nature is absent: or are found to increase in some instances where the given nature decreases: or to decrease where the given nature increases. Then, indeed, after the rejection and exclusion has been duly made, there will remain at the bottom, all light opinions vanishing in smoke, a Cause affirmative, solid, and true and well defined"

As an indispensable part of Induction is the rejection of erroneous causes[3]—"I must now give an example of the exclusion and rejection of natures, which, by the table of presentations, are found not to belong to the Form, or Cause [of Value], observing in the meantime not only each table suffices for the rejection of any nature, but even any one of the particular instances contained in any one of the tables. For it is manifest from what has been

[1] *Nov. Org.*, Bk. II., *Aph.* 11 [2] *Nov. Org.*, Bk. II., *Aph.* 16

[3] *Nov. Org.*, Bk. II., *Aph.* 18

said, *that any one contradictory instance overthrows a conjecture as to the Cause*"

### *Investigation of the* **Form** *or* **Cause** *of* **Value**

**7.** Bacon has exemplified his process of Induction by investigating the Form, or Cause, of Heat : our present task is to investigate the **Form,** or **Cause,** of **Value**

Following the example of the mighty Master, we must begin by making a complete collection of all the Instances of Value. That is, we must enumerate all the different kinds of Quantities, with all their varieties, which have Value

These are—

I. **Corporeal** or **Material Quantities** : under this species are comprehended the following varieties—

Lands : Houses : Trees : Cattle : Flocks and Herds of all sorts : Corn and all other fruits of the earth : Furniture : Clothes : Money : Minerals of all sorts : Jewelry : Pearls : Manufactured articles of all sorts : Fish : Game

II. **Immaterial Quantities** : comprehending Labor of all sorts : agricultural : artisan : professional : scientific : literary : trade secrets : news

III. **Incorporeal Quantities** : comprehending Rights of action : Credits or Debts : the Funds : Shares in commercial companies : Copyrights : Patents : the Goodwill of a business : a Professional Practice : Tolls : Ferries : Tithes : Advowsons : Rents : Shootings : Fishings : Market Rights : and all other Valuable Rights

We must now investigate the **Cause** of **Value** in all these different kinds of Quantities, and in all their varieties : and in each one separately. We must first by a due course of Rejections and Exclusions eliminate all accidental and intrusive ideas which may in some cases be associated with Value : and in other cases not : and after completing this course of Rejections and Exclusions, we must end by an **Affirmative** : and discover that **Single General Cause,** which is common to all these different classes of Quantities : which, being present, Value is present :

which, when it increases, Value increases: which, when it decreases, Value decreases: and which, being absent, Value is absent

### **Materiality** *is not* **Necessary** *to* **Value**

**8.** Now in examining these three classes of cases which all have Value, we observe that the whole class of Immaterial Quantities, and the whole class of Incorporeal Quantities, have Value: but have no Materiality

Hence it is evident that **Materiality** is not **Necessary to** Value: it is only in some cases the **Accident** of Value

### **Permanence,** *or* **Durability,** *is not* **Necessary** *to* **Value**

**9.** We also observe that some things which have Value last for ever, like the Land: the Funds: Precious stones: statues: coins

Other things may last a very long time. such as houses, watches, pictures. Other things have a very much less degree of durability, such as clothes: animals. Others have a very short degree of durability, such as food, flowers

But Labor, which in many cases has very high Value, perishes in the very instant of its production: and therefore has no durability, or permanence at all

Thus, Quantities which have Value, have all degrees of permanence or durability. Now among Bacon's Prerogative instances he mentions Ultimity, or Limit: and says[1]—"Nor should extremes in the lowest degree be less noticed than instances in the highest degree"

This is the doctrine of the *Law of Continuity*, which says—

"That which is true up to the Limit, is true at the Limit"

From these principles it follows that things which have the lowest degree of permanence, or durability, which is 0: are to be included in Economics, as well as those which have the degree, *i.e.*, which last for ever

Hence it is seen that **Permanence,** or **Durability,** is not **Necessary** to Value: it is only the Accident of Value

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[1] *Nov. Org.*, Bk. II., Aph. 34

## **Error** *of the Doctrine that* **Labor** *is the* **Cause** *of* **Value**

**10.** Having shown that Materiality and Permanence are in no way necessary to Value ; we have now to discover the **Cause** of Value

A doctrine which has obtained great hold over English Economics is that Labor is the **Cause** of **Value**

Now if we simply refer to the table of Instances given above, it will be seen at once that there are multitudes of instances of Quantities which have Value in which there is no Labor at all. This at once shews that Labor is in no way essential to Value : but, as Whately said, it is only the **Accident** of Value

Nevertheless, this fatal doctrine has obtained such a firm hold and has had such a baleful influence over English Economics : and has so especially obstructed the true apprehension of the principles of Credit, that we must give a more elaborate refutation of it

The doctrine that Labor is the cause of all Value, which is entirely peculiar to English Economics, originated, as far as we are aware, with Locke. As this passage is but very little known, we shall make room for it, though rather long

After alleging that the foundation of the right of appropriating portions of the earth and its products, by private persons, originated in the Labor they bestowed on them, he says[1]—

"Nor is it so strange as, perhaps, it might appear, that the property of Labor should overbalance the community of Land : *for it is Labor, indeed, that puts the difference of Value upon everything* : and let any one consider what the difference is between an acre of land planted with tobacco and sugar, sown with wheat and barley : and an acre of the same land lying in common, without any husbandry upon it, and he will find that the improvement of **Labor** makes far the greater part of the **Value**. I think it will be but a very modest computation to say that of the products of the earth useful to the life of man, nine-tenths are the effects of Labor : nay, if we will rightly estimate things, as they come to our use, and cast up the several expenses about them, what in them is purely owing to nature, and what to

[1] *Essay on Civil Government*

Labor, we shall find that in most of them ninety-nine hundredths are wholly to be put on the account of Labor

"There cannot be a clearer demonstration of anything, than several nations of the American Indians are aware of this, who are rich in land, and poor in all the comforts of life: whom nature having furnished as liberally as any other people with the materials of plenty, *i.e.*, a fruitful soil, apt to produce in abundance what might serve for food, raiment, and delight: yet for want of improving it by Labor, have not one-hundredth part of the conveniences we enjoy: and a being of a large and fruitful territory there feeds, lodges, and is worse clad than a day laborer in England

"To make this a little clearer, let us but trace some of the ordinary provisions of life through their several progresses, before they come to our use, and see how much of their Value they receive from human industry. Bread, wine, and cloth are things of daily use, and great plenty: yet, notwithstanding, acorns, water, and leaves for clothing, or skins, must be our bread, drink, or clothing, did not Labor furnish us with these more useful commodities: for whatever bread is more than acorns, wine than water, and cloth or silk than leaves, skins, or moss, that is wholly owing to Labor and Industry: the one of these being the food and raiment which, unassisted, nature furnishes us with: the other provisions which our industry and pains prepare for us: which, how much they exceed the other in value, when any one hath computed, he will then see how much Labor makes for the greater part of the Value of things we enjoy in this world: and the ground which produces the materials is scarce to be reckoned on, as any, or at most, a very small part of it: so little, that even among us, land that is kept wholly to nature, that hath no improvement of pasturage, tillage, and planting, is called, as it is indeed, waste: and we shall find the benefit of it amount to little more than nothing

"An acre of land that bears here twenty bushels of wheat, and another in America, which with the same husbandry would do the like, are without doubt of the same natural intrinsic Value: but yet, the benefit mankind receives from one in a year is worth £5, and from the other probably worth a penny, if all the profit an Indian received from it were to be valued and sold here : at least, I may truly say, not one thousandth. It is Labor, then, which puts the greatest part of the value on land, without which it would scarcely be worth anything : it is to that we owe the greatest part of all its useful products : for all that the straw, bran, bread of that acre of wheat is more worth than the product of as good land which lies waste, is all the effect of Labor : for it is not barely the ploughman's pains, the reaper's and the thresher's toils, and the baker's sweat, is to be counted in the bread we eat : the Labor of those broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being seed to be sown to its being made bread, must all be charged to the account of Labor, and received as an effect of that : nature and the earth furnished only the almost worthless materials as in themselves. It would be a strange catalogue of things that industry provided and made use of about every loaf of bread before it came into our use, if we could trace them : iron, wood, leather, bark, timber, stone, brick, coals, lime, cloth, dyeing, drugs, pitch, tar, masts, ropes, and the materials made use of in the ship that brought any of the commodities used by any of the workmen to any part of the work: all which it would be impossible, at least too long, to reckon up."

We have given this extract at length, because it is probably the most elaborate Economical analysis of price of its time : and so far as we are aware, it is the first assertion that Value is due to human Labor. The answer to all its elaborate exposition is very simple. Notwithstanding all the Labor bestowed in obtaining these products from the earth, if there was no **Demand** for them, they would not be of any Value. Hence it is the **Want,** or **Desire,** for the products which **causes** Labor to be bestowed in producing them : and not the reverse. The doctrine that all Wealth is the produce of Land and Labor became very common among the jejune thinkers on Economics in the last century, from their ignorance of Jurisprudence and practical business

The Economists restricted the term Wealth to the material products of the earth which are brought into commerce and exchanged. Hence, according to this doctrine, Labor and Materiality were indispensably associated with Value: but they were not the **Cause** of Value; because unless these material products were exchanged, they had no Value: hence the Economists made **Exchangeability,** or **Demand,** the **Cause** of Value

Adam Smith begins his work by describing Wealth as the "annual produce of land and labor:" but as he afterwards enumerates the natural and acquired abilities of the people as Fixed Capital: and Bank Notes and Bills of Exchange as Circulating Capital: he is quite self-contradictory: and he afterwards admits that Exchangeability is the real essence of Value

Ricardo's work is a treatise on Value: but he begins by restricting his inquiry to things which are the produce of human labor: thus excluding about 80 per cent. of things of Value from his inquiry: and then he says that Labor is the foundation of all Value. But such a mode of reasoning is evidently futile and inadmissible

Ricardo was an eminent member of the Stock Exchange. The Commodities he dealt in, which he bought and sold were Public Securities of all sorts. Now if Ricardo held £100,000 worth of the British Funds would he maintain that their value was due to Labor?

McCulloch, who is a mere copyist of Ricardo, also, in one place strenuously maintains that Labor is the Cause of all Value. He says[1]—"Nature is not niggard nor parsimonious. Her rude products, powers and capacities, are all offered gratuitously to man. She neither demands nor receives an equivalent for her favors. An object which may be appropriated or adapted to our use without any voluntary labour on our part, may be of the highest utility, but as it is the free gift of nature, it is quite impossible that it can have the slightest Value"

Also—"In its natural state, matter is very rarely possessed of any immediate or direct utility, and is always destitute of Value. It is only through the labor expended in its appropriation, and in fitting and preparing it for being used, that matter acquires Exchangeable Value, and becomes Wealth"

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[1] *Introduction to Adam Smith*

We shall afterwards show the absurd consequences of this doctrine: and show McCulloch's self-contradictions

So also Carey, the American Economist, was infected with this doctrine, and says—"Labor is the sole Cause of all Value"

Now it is impossible to stir a step in this subject until this contradiction is cleared up: and we determine whether **Labor** or **Exchangeability**, i.e., **Demand**, is the **Cause** of **Value**

### *Examination of the Doctrine that* **Labor** *is the* **Cause** *of all* **Value**

**11.** We have now to apply the principles of the Baconian Induction to investigate the Doctrine that **Labor** is the sole **Cause**, or **Form**, of **Value**

We may lay down this Lemma—

*If Labor is the Sole Cause of Value, then whatsoever thing Labor has been bestowed upon must have Value*

For if there be two things which have been produced with equal amounts of Labor: and the one has Value, and the other not: or if a thing produced by Labor has Value in one place and not in others; are at some times and not at others; then there must be some other Cause of Value besides Labor: which is contrary to the hypothesis

We will now examine some of the necessary consequences of the Doctrine that Labor is the Cause of all Value

I. *All Differences or Variations in Value must be due to Differences or Variations in Labor*

This is Locke's doctrine: but it is contrary to all experience: because there are many material things upon which no Labor was ever bestowed, which yet have very great Value: and also very great differences of Value

The space of ground upon which a great City like London is built has enormous Value: but this space of ground is in no way the product of Labor

Land near the Bank of England has often been sold at the rate of £2,000,000 an acre: quite exclusive of any buildings on it: now is this land the product of Labor?

As we recede from the centre the Value of land rapidly diminishes: at the present time the Value of land at Charing Cross is said to be £600,000 an acre: but in the suburbs of London it is far less

Moreover, land in the same locality has very different Values.

A frontage in a main thoroughfare like Cheapside, Fleet Street, the Strand, Cornhill, Oxford Street, Regent Street, is of much greater Value than an equal space of ground in a back street

How are these differences of Value due to differences of Labor: when, as we have seen, there never was any Labor at all bestowed on the land?

We read that the island of Manhattan on which the City of New York is built was originally purchased from the Indians for the sum of £5. What would be its value now? And yet the land remains just the same as ever it was. Within the last century immense cities have sprung up in what was then desert. Melbourne, Sydney, Adelaide, Chicago, and countless others stand on ground which was then absolutely worthless. In each of these the land is now of enormous Value: Now is its Value due to Labor?

The title deeds of the land on which the City of Melbourne now stands are in the British Museum. The purchase money of the land was 20 pairs of blankets, 30 tomahawks, 100 knives, 50 pairs of scissors, 30 looking glasses, 100 handkerchiefs, 100 pounds of flour, and 6 shirts. Besides these, there was reserved an annual rent of 100 pairs of blankets, 100 knives, 100 tomahawks, 50 suits of clothing, 50 looking glasses, 50 pairs of scissors, and five tons of flour. This was the price in 1835 of 500,000 acres of land: some of which sold at one time for £500,000 an acre: and recently some of it brought £2,000 the square foot

If the augmented Value is due to Labor bestowed upon it, a diminution in the Value of land must be due to Labor subtracted from it. But how is this possible ?

As the tide of fashion, population, and Wealth flows towards a locality, the ground rises rapidly in Value : whereas when a locality is deserted by wealth and population the Value of land rapidly diminishes. How are these changes in the Value of land due to variations in Labor: when as we have seen these spaces of ground are not the result of Labor at all ? I know of a shop in a suburb of London which fifty years ago let for £50: at the present day that very same shop lets for £250. How can this change of Value be due to Labor, when this shop stands exactly the same as it did fifty years ago ?

The ground in the centre of London, Paris, Berlin, Vienna, and countless other cities, has enormous Value. There are numerous other places now desolate and lonely which were once the sites of great cities

Memphis, Babylon, Nineveh, were once great cities : when the chariots and the horsemen were pouring forth in multitudes from the hundred-gated Thebes, the land in it must assuredly have had very great Value. So with numberless other places. Where is their Value now ? Yet the ground remains exactly the same as ever it was. Is this diminution in Value due to the subtraction of Labor? If London, Paris, Berlin and Vienna should ever come to be as Nineveh, Babylon, Memphis, and Thebes are to-day, where would the Value of the land be on which once they stood ? When the future Belzoni or Layard comes from New Zealand to sketch the ruins of St. Paul's from a broken arch of London Bridge, will the ground near what was once the Royal Exchange, sell for £70 the square foot ?

When a fair is held near a town, persons pay a good rent for leave to erect booths and tents on the Common. Thus at these times, the land acquires Value. At other times they would pay nothing: and the land would have no Value. Therefore the simple space of ground has Value at one time : and not at another. How can the changes in the Value of the land be due to changes in Labor, when the ground remains exactly as it was ?

McCulloch's doctrine that no natural product has Value until

Labor has been bestowed upon it: and that it is the Labor of appropriating it which gives it Value, is refuted by the plainest experience

Suppose a miner has the good fortune to find a diamond weighing 400 carats on the surface of the ground, would it have no Value? And is it the Labor of appropriating it that gives it its Value?

Again Diamonds have very different degrees of Value according to their purity and freedom from blemishes. How can these differences of Value be due to differences of Labor, when the diamonds are not the creation of Labor at all?

Suppose that another person finds a nugget of gold weighing 400 ounces, has it no Value? And is it the Labor of picking it up, which gives it its Value?

The proprietor of a coal mine, or a marble quarry, demands and receives a price for the coal and the marble as they exist in the mine, or the quarry, before a human being has touched them, or even seen them

The Government founds a new Colony and takes possession of the land: it is quite usual to demand a price, or a rent, for the land which no person ever touched. How is its Value due to Labor?

In the Midland counties of England there are many oak trees which would sell for £60 or £100, as they stand upon the ground. They were, perhaps, self-sown: no person, perhaps, ever bestowed so much Labor upon them as even to sow the acorn from which they grew. How is the Value of such oak trees due to Labor?

But the very same oak trees in the centre of a forest in an uninhabited country would have no Value at all. How are these differences of Value due to Labor?

It is said that in 1810 an oak tree was cut down at Gelenas, in Monmouthshire, whose bark sold for £240: and the wood for £670: how was the value of the bark and the wood due to Labor?

Near these oak trees there may, perhaps, be growing other trees—beeches, elms, ashes—of the same size. It is well known that these trees do not have the same Value as oaks. How are the differences of Value of these different trees due to Labor?

It is a common resource of gentlemen who are embarrassed to sell the timber on their estates. And this timber often realises very many thousands of pounds. How is the value of this timber due to Labor?

A large meteoric stone fell in Scania. It was acquired by Baron Nordenskiöld for the sum of £84, for the national museum.[1] How was the value of this aerolite due to Labor?

There are again cattle, flocks, and herds of all sorts. They increase and multiply by the agency of nature. How is their Value due to Labor?

Some time ago a large whale was stranded in the Firth of Forth: it sold as it lay on the beach for £70: no human being touched it: how was its Value due to Labor?

Mr. Buckland says—"When examining the cast off skins of the snakes at the Zoological Gardens, we observed some white-looking substance in a box. This is the *dejecta* of the snakes. It is a perfectly white substance, looking very like plaster of Paris: and is composed of very nearly pure uric acid. It is bought by a doctor (I imagine a chemist) for the high price of nine shillings a pound." Is the value of the *excreta* of snakes due to human Labor?

Some years ago, when it was the fashion for European ladies to pile huge masses of hair, termed chignons, on their heads, in imitation of their swarthy sisters of Central Africa, it was not uncommon for a girl's hair to sell for £5, £10, £20, and even sometimes for £50. Was the Value of the girls' hair due to Labor?

It is stated in a French paper that at Merlans, in the department of the Lower Pyrenees, there is a regular market for girls' hair, held every second Friday, which is attended by hundreds of hairdressers. Ordinary hair does not go for much: three to twenty francs a head. But for pure white hair there is an immense demand: and it sells from £15 to £20 an ounce. There is no market for ordinary grey hair. Now is the value of the pure white hair due to Labor? And is the difference in price between pure white hair and ordinary hair due to differences in Labor?

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[1] *Nature*, June 20, 1889

II. *If Labor be the Sole Cause of Value: then all things produced by* **Equal Quantities** *of* **Labor** *must be of* **Equal Value.**

But this doctrine is contrary to all experience

If it were true, a diamond and the rubbish it is found in ought to be of Equal Value: So a pearl and its shell ought to be of Equal Value. If a lump of gold and a lump of clay were obtained by equal Quantities of Labor, they ought to be of equal Value

If a sportsman were to shoot a pheasant with one barrel, and a crow with the other, the pheasant and the crow ought to be of equal Value. Or if a fisherman were to catch a salmon and a dogfish in the same net, the salmon and the dogfish ought to be of equal Value

And similar cases might be multiplied to any extent

Hence we have products obtained by exactly the same Quantities of Labor: some of which have Value, and others not: which decisively proves that Labor cannot be the Sole Cause of Value

III. *If Labor is the Sole Cause of Value: then the* **Value** *must be* **Proportional** *to the* **Labor**

But this doctrine is contrary to the most manifest experience.

Suppose that a gold digger by good luck finds a nugget of gold lying on the surface of the ground: and another digger finds a similar nugget at the end of a week's labor: another finds a similar nugget at the end of a month's Labor: another finds a similar nugget at the end of six month's Labor: another finds a similar nugget at the end of a year's Labor: then according to this doctrine, the nugget found by the expenditure of a year's Labor ought to be immensely more valuable than the nugget picked up without Labor: and the other nuggets ought to have Value in proportion to the Labor they cost. But every one of common sense knows that such a doctrine is wholly fallacious. All the nuggets would have exactly equal Value: notwithstanding that they were obtained by very different Quantities of Labor

So with diamonds: suppose that a miner by good luck found a magnificent diamond directly he began to work: and suppose that after lengthened toil he found a very small one: then the small diamond ought to be many times more valuable than the large one

So when different quantities of wheat mingle in the same market, brought from all different countries of the world: their general Value is determined solely by the Law of Supply and Demand. But wheat of a superior quality bears a higher price than wheat of an inferior quality: without the slightest reference to its cost of production. We saw it stated in a paper that when wheat from Manitoba was brought into the Liverpool market, it was at once priced 3d. per hundred pounds higher than the best Californian wheat. This was due simply to its superior quality: and had nothing to do with cost of production

And numerous other cases of a similar nature might be cited

IV. *If Labor be the Sole Cause of Value, a thing produced by Labor must* **Always** *have Value, and the* **Same** *Value*

But this is notoriously contrary to experience

As the author of the Eryxias showed that the same thing may have Value in one place and not in another: and at one time, and not at another

A bag of sovereigns has great Value in London: but take them among the Eskimos, and where would their Value be?

A Professor of Greek, Latin, or Mathematics, may find his acquirements of great Value in the Universities where there are many students demanding instruction: but of what Value would they be among the Patagonians?

A great Lawyer finds his eloquence, his knowledge, and his skill, of great value in the Royal Courts of Justice, but of what Value would they be among the Hottentots? Even in London itself a man may have the most splendid acquirements, but if no one employ him, where is their Value? If a man had all the medical skill and knowledge in the world from Hippocrates and Galen to Copland, and no one was ill, where would the Value of it be to him? If an author were to publish the most learned and laborious works in the world, and no one would buy them: where would their Value be to him?

To say that Labor is the sole Cause of Value, is to say that an isolated thing can have Value : whereas Value is always relative: and can only arise in society

If a man were cast on a desert island, and had twenty hogsheads full of sovereigns ; of what possible Value could they be to him ?

If any one were to set up a manufactory of watches : or grow fields of corn in the centre of Australia, where there is no demand for watches or for corn : where would their Value be ?

Moreover, if Labor be the sole cause of Value : if a thing is once produced by Labor : its Value can never vary : which is Ricardo's express doctrine. But this is contrary to all experience. Because after things have been produced, and all Labor upon them has been ended : they constantly vary in their Value from day to day : from month to month : and from year to year

Thus pictures by one master constantly rise in Value : and pictures by another master fall in Value : long after the hand which has produced them lies cold in the grave. The pictures themselves remain exactly the same : it is the Taste, *i.e.*, the Demand of the public, which varies

Ricardo maintains that the same Labor in manufactures always produces the same Value

In the reign of George III. there was a very widespread fashion to wear steel shoe buckles : this manufacture employed a large number of persons. All of a sudden these steel buckles went out of fashion : the demand totally ceased : and the people employed in making them were thrown into the direst distress. But according to Ricardo, the buckles were of the same Value, when there was a demand for them and when there was none ! According to Ricardo the way to alleviate the distress of the people was for them to go on manufacturing shoe buckles for which there was no demand

Some years ago the fashion of ladies wearing straw bonnets suddenly went out : and the manufacturers of them at Luton, Dunstable, &c., were thrown into the direst distress. But according to Ricardo, the straw bonnets were exactly of the same Value, whether there was a demand for them or not

According to Ricardo, if the warehouses of Manchester were groaning with goods, the produce of Labor, they would be exactly of the same Value, whether there was a demand for them or not. We doubt whether the manufacturers of Manchester would acquiesce in this doctrine

Now with respect to the second Order of Economic Quantities, namely, Immaterial Property, which includes all kinds of Labor: one simple question will suffice—

*If* **Labor** *is the Sole* **Cause** *of* **Value,** *what is the* **Cause** *of the* **Value** *of* **Labor** *?*

Laborers of all kinds know only too feelingly the bitter mockery of the doctrine that Labor is the Cause of Value: when often and often it happens that thousands and thousands of them are only too willing to sell their Labor, when there is no one to buy it. But, according to Ricardo, their Labor is of exactly the same Value to them, whether there is any demand for it or not

With respect to the third order of Economic Quantities, namely, Incorporeal Quantities, or Abstract Rights, there are some kinds which are no doubt associated with Labor, such as Copyrights, Patents, and the Goodwill of a business

But the same remark applies to them as to material objects, with which Labor is associated: that Labor cannot be the Cause of their Value

If a person bestows an enormous amount of Labor in preparing and publishing a work, the Law of course may give him the Copyright, but if no one will buy the work, where is its Value ?

So also with Patents: an inventor may bestow enormous Labor in perfecting the machine: but if no one will buy the machines, where is the Value of the Patent ?

Besides, though persons may bestow Labor on the works or machines : it is the Law alone which creates the Copyright or the Patent : and where is the Labor in creating a Copyright or a Patent ?

No persons know more feelingly than authors and inventors that Labor is in no way necessarily the Cause of Value

But there are vast masses of Incorporeal Property which have Value, which are not associated with Labor at all

Thus a person who held a large amount of the Funds would be a wealthy man : the Funds have Value. But where is the Labor bestowed on them ?

Mill himself allows that a promise to pay by a solvent banker or merchant is of exactly the same Value as the gold itself: which of course it is, because the gold is the Value of the promise. But how is the Value of the promise, or the Credit, due to Labor ? And the whole mass of circulating Credits or Debts (supposed sound), are of exactly of the same Value as an equal quantity of gold. How is the Value of this mass of circulating Credits, or Debts, due to Labor ? The quantity of this mass of circulating Credits, or Debts, in this country is colossal, it far exceeds any other single kind of property in the country, except the land

The Bank of England stamps one piece of paper with a promise to pay £5 : it stamps another piece of paper with a promise to pay £1,000 : the Value of one piece of Paper is £5, the Value of the other piece of paper is £1,000 : how is the difference in the Value of these two pieces of paper due to differences of Labor ?

Thus we see the utter fallacy of the doctrine that Labor is necessary to Value : and that all Wealth is the produce of Land, Labor, and Capital

### Results *of the preceding* Inquiry

**12.** We may now summarise the results of the preceding investigations : these are—

1. That there are vast quantities of property, both Corporeal and Incorporeal, which have Value, upon which no Labor was ever bestowed

2. That Quantities, both Corporeal and Incorporeal, associated with Labor, may have no Value

3. That the same quantity of Labor may produce products: some of which may have Value : and others no Value

4. That quantities produced by varying quantities of Labor may have the same Value

5. That things produced by Labor may have Value in some places, and not in others : and at some times, and not at others

6. That things produced by less Labor may have more Value than things produced by more Labor

From these indisputable propositions, the result of practical experience, the undeniable inference is that Labor is not in any way whatever the Form, or Cause of Value: or even necessary to Value: and in fact in this great commercial country the enormously greater amount of Valuable Property is not the result of Labor at all

Now by the Laws of Inductive Philosophy, if we could find a single case of Value which is not the result of Labor: that single instance would alone be sufficient to overthrow the doctrine that Labor is the sole Cause of Value. But instead of one instance, there are multitudes : it is probable that not 20 per cent. of Valuable Quantities have anything to do with Labor

In short, there never was any doctrine in science, which has received such a crushing and overwhelming overthrow, as that Labor is the Cause of Value: and hence that system of Economics which founds its ideas of Wealth and Value on Labor, is utterly fallacious

The pertinacity with which some writers still persist in maintaining that Labor is the Cause of all Value, contrary to the evidence of the most glaring facts, is a strong and striking instance of Bacon's aphorism[1]—

"The human understanding when it has once adopted an opinion (as being either the received opinion, or as being agreeable to itself) draws all things else to support and agree with it. And though there be a greater number and weight of instances to be found on the other side, yet these it either neglects or despises, or else by some distinction sets aside and rejects : in order that by this great and pernicious pre-determination the authority of its former conclusions may remain inviolate . . . .

"But with far more subtlety does this mischief insinuate itself into philosophy and the sciences : in which the first conclusion colors and brings into conformity with itself all that come after, though far sounder and better. Besides, independently of that delight and vanity which I have described, it is the peculiar and perpetual error of the human intellect to be more moved and excited by affirmations than by negatives: whereas it ought properly to hold itself indifferently disposed towards both alike. *Indeed in the establishment of any true axiom the* **Negative** *instance is the more forcible of the two*"

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[1] *Nov. Org.*, *Bk.* I., *Aph.* 46.

### *On* Utility *as the* Cause *of* Value

**13.** Seeing then that the doctrine that Labor is the Cause of Value is untenable, as every Economist of sense now sees, J. B. Say placed the Origin or Source of Value in **Utility** : although he has involved himself in many contradictions

The doctrine that Utility is the Cause of Value is in some respects more specious than that Labor is the Cause of Value, because there are many things, like land, trees, cattle, &c., which are very useful, and have Value, which are not the result of Labor at all. But yet it is liable to the same fatal objections as that Labor is the Cause of Value: because it makes Value some Quality of the thing itself, absolute and inherent : as Say says[1]—"Sans que leur Utilité, leur Valeur intrinsèque, soit plus grande" —"Sa valeur reelle fondée sur son Utilité." Therefore Say makes the Utility of any object its **Intrinsic Value** : and therefore, of course, its Value cannot vary so long as its Quality remains the same

Many of the arguments that show that Labor is not the Cause of Value equally show that Utility is not the Cause of Value

The doctrine that Utility is the Cause of Value is more specious in this respect : that for a thing to be useful it must be useful to some **Person**. But then there is this fatal defect in it, that things may be very useful, and yet have no Value. When Robinson Crusoe was in his desert iland he had many things that were useful, but they had no Value, because he could not exchange them away. As the Economists pointed out, Value is a quality which only arises in society. Moreover, in Communistic societies where persons work in common and the products are divided among the community, there may be things of great Utility, but they have no Value, because there are no exchanges. Value, as J. B. Say himself says, only arises out of an exchange

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[1] *Traité*, pp. 58, 59

Besides if Utility is the cause of Value, the object must always have the same Value while its Quality remains the same. But while the Quality remains the same, the same thing may be useful in some places and not in others: and at some times and not at others: and to some persons and not to others. Some persons smoke, others abhor tobacco: tobacco has Utility for those who smoke, it has none for those who do not. Some persons drink wine, others wholly abstain from it. Wine has Utility for the former, and none for the latter: the wine itself remaining the same. When persons are ill, drugs have great Utility: when persons are well, drugs have no Utility, but the drugs themselves remain the same. A tureen of train oil would be a great delicacy and highly prized among the Eskimos, but it would probably not have the same value at the Lord Mayor's dinner. And it would be easy to multiply instances to any amount of things being useful to some persons, and not to others: and in some places, and not in others: and at some times, and not at others: the things themselves remaining exactly the same

Again if Utility be the Cause of Value, things ought to be valuable in exact proportion to their Utility. But this is contrary to the plainest experience: because, however useful a thing may be, it may be so abundant as to have no, or at least an extremely small, Value. A familiar example of this is Water, which is of the very greatest Utility: but it is so abundant that it has no value: or at least none except what is paid as water rates. But in times of great scarcity, as in a besieged town, water may acquire a very high Value. So the air we breathe, which is very useful and indispensable to life, costs nothing, because we can have as much as we please of it. And this might be developed to a great extent

Again, things of no Utility may have enormous Value: such as diamonds: and, indeed, instances of this are so numerous, and have been so often quoted, that it is superfluous to cite them

Very slight reflection will show that Utility is so vague an expression that it cannot be made the basis of Value. But there are also a great many things which have Value, to which it would be a great debasemant of the word Utility to apply it to them at all. The depraved tastes and licentious appetites of too large a portion of mankind confer a Value upon things of the most detestable nature. It requires the sternest rigor of the law to put down the sale of obscene pictures and books. While there is a demand for such things, and persons will buy them, they undoubtedly have Value, and are Wealth, equally as the most excellent things. But surely no one would debase the word Utility by applying it to such masses of abomination. But while this continues no Economist can refuse to class them as Wealth

### Demand *is the Sole* Cause *of* Value

**14.** It has now been shown that Materiality and Durability are in no way necessary to Value: but are only in some cases the accidents of Value. It has also been shown that **Labor** and **Utility** altogether fail to stand the tests of Inductive Logic as being the Cause of Value. What then remains? In what consists the essence of Value? The only thing which ancient writers, Aristotle, the author of the Eryxias, the Roman Jurists: and in modern times the Physiocrates, the Italian Economists, Smith, Condillac, Whately, and hosts of others have observed—**Exchangeability.** Each of the Quantities in the table of Instances may be bought and sold: or their Value may be measured in money: each of them possesses the attribute of Exchangeability: and that is the sole attribute which is common to all the classes of Quantities: and to each separate Quantity in each class. Hence, as the ancients unanimously held for 1,300 years, Exchangeability is the sole essence and principle of Wealth.

Thus, by strictly and reverently following the precepts of the mighty Master, by rejecting and excluding all accidental and intrusive ideas, we have at last obtained an **Affirmative** issue

Now what is necessary in order that any Quantity may be Exchangeable? Evidently that some one else should **Demand it.** If I offer something for sale, what is necessary that it should be sold? Simply that some one else should Desire, or Demand, it. It is therefore clear that **Demand** is the sole **Cause** of **Value, or Exchangeability**

Aristotle said long ago that it is χρεία, or **Demand,** which binds society together: the author of the *Eryxias* over and over again points out that Demand is the sole Cause which constitutes anything Wealth: and that anything is Wealth, whatever its nature may be, so long as it is Wanted and Demanded: and no longer. He pointed out that the local Money of different states is only Wealth where it has power of purchase: where it has no power of purchase it is not Wealth

It has been shown that the Greek word χρῆμα, which is one of the most usual words for Wealth is derived from χράομαι, to want, or demand: and that χρῆμα simply means anything which is "Wanted and Demanded": and that things are only χρήματα where they are χρήσιμα, or wanted and demanded: and that where they are not χρήσιμα, they are not χρήματα

Here it is quite evident that we have got to the Origin, Form, or Cause, of Value: it is **Demand** pure and simple. Value is not a Quality of an object: nor is it the Labor bestowed on obtaining it: *it is an* **Affection** *of the* **Mind.** The sole Origin, Form, or Cause, of Value is **Human Desire.** When there is a demand for things they have Value: when the Demand increases (the supply remaining the same), the Value increases: when the Demand decreases, the Value decreases: and when Demand altogether ceases, Value is altogether gone

Boisguillebert, the morning star of Economics, saw this most clearly. He says[1]—"*Consommation* (Consumption, or Demand) is the principle of all Wealth."—"All the revenues, or rather all the riches of the world consist in *Consommation* (Demand): all the most exquisite fruits of the earth, and the most precious products would be nothing but rubbish, if they were not *Consommés* (Demanded)

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[1] *Factum de la France*, ch. V.

The Italian Economists were very clear and consistent in showing that Human Wants and Desires are the sole Cause of all Value

Genovesi clearly points out[1] that the words *prezzo*, *stima*, *valuta*, *valore*, are words of relation : and not absolute : and that they are not applied to Intrinsic Qualities. That though Money is the approximate measure : the ultimate measure to which not only things, but their Price is referred, is Man himself. Nothing has Value where there are no men : and the very things which have a less Value where men are few, have a very high Value where there are many people : which is the reason why things and services have a much higher Value in the Capital than in the provinces

"Men, however, do not give Value to things and services unless they want them. Hence our wants are the first source of the Value of all things : and Price is the power to satisfy our wants"

Genovesi says that nothing has Value except in relation to these wants and demands. He shows how prices are always determined by Supply and Demand : and he says—"Value is the child of Demand"

So Beccaria says[2]—"**Value** *is a* **Substance** which measures the **Estimation** in which men hold things"

Verri shows[3] that it is the wants of men which give rise to commerce, and as their wants increase so does commerce increase. Nations which increase their wants increase their power and their happiness. Desire, or Demand, incites men to commerce. Commerce increases Demand and abundance. Desire for the merchandise sought, and abundance to give in exchange for it, and as a nation progresses from the few and simple wants of the savage state to new wants and necessities, it must proportionately increase its annual production, so that it may have enough beyond its annual consumption to purchase foreign goods

They then require something to ascertain the equality between what they give and what they receive. "**Value** is a word which denotes the **Estimation** which men make of a thing." Verri also shows that all variations in Price proceed from variations in Supply and Demand

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[1] *Lezioni di Economia Civile*, part ii., ch. I.

[2] *Del disordine e de' remedj delle monete nello stato di Milano*

[3] *Meditazioni sulla Economia Politica*

The Economists made all Value proceed from Demand: they showed that things which remain without *Consommation* (Demand) are without Value

Condillac is very clear and explicit on this point.[1] He begins by investigating the foundation of the Value of things, and shows that it originates entirely from the wants and desires of men. Things which satisfy some want have utility: and this Want, or Estimation, is called Value

"As people feel new wants they learn to make use of things which they did not before: they give, therefore, Value at one time to things to which at other times they did not"

Hence all Value resides in the **Mind**: and he says—"This Esteem is what is called Value": and he shows that all variations in value proceed from variations in Supply and Demand

We have now shown that all ideas that Labor, or Utility, as the Cause of Value, are erroneous, and must be rejected: and that **Demand** is the **Sole Cause** of **Value**

### *Self-contradiction of those writers to whom is chiefly due the doctrine that* **Labor** *is the* **Cause** *of* **Value**

**15.** Even those writers to whom the doctrine that Labor is the Cause of Value is chiefly due, have flatly contradicted themselves. We have already pointed out the fallacy of Locke's doctrine. Smith, who at the beginning of his work, fills the minds of his readers with the notion that Labor is the Cause of Value, and that all Wealth is the product of Land and Labor, says[2] that the vine "is more affected by the difference of soils than any other fruit tree (?) From some it derives a flavor which no culture or management can equal, it is supposed, on any other. This flavor real or imaginary, is sometimes peculiar to the produce of a few vineyards: sometimes it extends through the greater part of a large province. The whole quantity of such wine that is brought to market falls short of the effectual demand, or the demand of those who would be willing to pay the whole rent, profit and wages necessary for preparing and bringing them thither according to the ordinary rate at which they are paid on common vineyards. The whole quantity, therefore, which can be disposed of to those who are willing to pay more, which necessarily raises the price above that of common wine. The difference is greater or less, according as the fashionableness or scarcity render the competition of the buyers more or less eager. Whatever it be, the greater part of it goes to the rent of the landlord. *For though such vineyards are in general more carefully cultivated than most others, the* **high price** *of the wine seems to be not so much the* **Effect** *as the* **Cause** *of the careful cultivation*"

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[1] *Le Commerce et le Gouvernement*, ch. I.

[2] *Wealth of Nations*, Bk. i., ch. II.

The same cause which influences the quality of the wine is true of all other fruits

Now this last sentence of Smith's is entirely antagonistic to the part of the work in which it occurs. Here he sees and acknowledges that it is *Value which is the Inducement to Labor*

So also Ricardo in combatting Malthus's Theory of Rent says[1]—" It is the rise in the Market Price of Corn which alone encourages production : for it may be laid down as a principle uniformly true, that the only great encouragement to the increased production of a commodity is its Market Value exceeding its Natural or Necessary Value "

So McCulloch, who is the abject bond slave of Ricardo, follows him in his gyrations. He says[2]—" Demand may therefore be considered as the ultimate **Source** and **Origin** of both **Exchangeable** and **Real Value**: for the desire of individuals to possess themselves of articles, or rather the **Demand** for them originating in that Desire, is the sole Cause of their being produced or appropriated "

Thus it is clearly seen that Smith, Ricardo, and McCulloch, who are the chief writers who have introduced that canker and plaguespot of English Economics that Labor is the **Cause** of Value, and that all Wealth is the product of Land, Labor and Capital have most manifestly contradicted themselves, and have acknowledged that Demand is the sole **Cause** of Value : and that it is not Labor which is the Cause of Value, but Value or Demand which is the Inducement to Labor

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[1] *Principles of Political Economy.*

[2] *Principles of Political Economy.*

We now, then, see that the true doctrine in Economics is that it is Value or Demand which is the Inducement to Labor. As the tribunes of the Commons said long ago[1]—

"Eo impendi Laborem ac periculum . . . . . magna præmia proponantur"

"Labor and danger are encountered . . . . . because great rewards are offered"

So says Hume—"Our passions (*i.e.*, Desires and Demands) are the only Causes of Labor"

Condillac says—"A thing has not Value because it has cost much as people suppose : but money is spent in producing it, because it has Value"

So Whately says—"In this as in so many other points in Political Economy, men are prone to confound Cause and Effect. It is not that pearls fetch a high price because men have dived for them : but on the contrary, men dive for them because they fetch a high price"

So the famous Spanish Jesuit Balthasar Gracian says[2]—"Demand is the measure of Value"

### **Demand** *confers* **Value** *on Things upon which* **no Labor** *was ever bestowed*

**16.** Labor itself has no Value unless there is a Demand for it : and the products of Labor have no Value unless there is a Demand for them. The Value of land arises solely from the Demand of men for its products. And as this Demand by the very physical constitution of men is permanent : the land is the source from which an annual revenue springs

But the Demand of men for products of the Mind is equally permanent : hence each of the great professions, Law, Medicine, Surgery, Engineering, also Art and Literature, and others are great Estates, like the Land, each deriving its Value from one great common principle—the Wants and Demands of mankind for their products, and their willingness to pay for them, and as it is this Desire or Demand, which calls them into existence and confers Value on them: so, a cessation of this Desire and the cessation of the willingness to pay for the products, would immediately annihilate their Value

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[1] *Livy*, Bk. iv., ch. XXXV.

[2] *Oráculo Manual*, § 229

And as we have seen that however much Labor has been bestowed on a thing, it has no Value unless it is wanted and Demanded: so Demand confers Value on a thing, and constitutes it Wealth, although no Labor was ever bestowed upon it

Thus it is the Demand for the ground upon which a city is built that confers enormous Value on the ground, though no Labor was ever bestowed on it: and it is the greater Demand which gives very different Values to spaces of ground in the same locality

It is Human Desire and Demand which alone constitutes the fruits of the earth, as well as cattle, and herds, and flocks: as also the various timber trees, oaks, beeches, elms, teak, mahogany, fir: **Wealth**

It is Demand which discriminates between the diamond and the rubbish it is found in: and between the pearl and its shell

So a recent lively writer describing the splendor of the houses in some of the remote country districts of Spain says—"Houses and splendid furniture in such places are nearly **Valueless**, because there is no one to **hire** the former or to **buy** the latter"

So, as we have already seen, Senior speaking of Personal Qualities as Wealth, says—"They may be rendered **Valueless** by any change in the custom of the country which shall destroy the Demand for his services"

This long investigation is not merely necessary to clear up the difficulties and perplexities into which ill-informed writers have thrown the theory of Credit: but it is of even far more consequence, as it strikes at the root of all the theories of the Socialists who maintain that all Value is derived from Labor, which they expressly ground on the doctrines of Adam Smith and Ricardo, and upon which is based the whole of that chaos of incomprehensible jargon Carl Marx's *Capital*

### **Credits** *or* **Debts** *have* **Value** *because they will be paid in Money*

**17.** The importance and the bearing of this investigation on our present subject is obvious. For it is the fatal doctrine that Labor is the Cause of all Value: and that all Wealth is composed of the materials of the globe and the product of Land, Labor, and Capital that is at the root of all the difficulty to apprehend the subject of Credit

If it be laid down that Labor is necessary to all Value, how could the Notes of the Bank of England or any other Bank have Value? Or how could the Bills of a solvent merchant have Value?

Every one knows that a Credit in a Bank or a Bank Note has Value, because the Bank will pay it in gold: a Bill on a solvent merchant has Value, because he will pay it in gold when it becomes due. And the gold with which the banker or merchant pays his Notes or Bills is their **Value**

So Mill, who is a devotee of Ricardo says[1]—"An Order or a Note of hand, or Bill payable at sight, for an ounce of gold, while the Credit of the giver is unimpaired, is worth neither more nor less than the gold itself"

So Smith, Say, and Mill all class Bank Notes as under the head of Circulating Capital

Smith himself acknowledges that if Money were not Exchangeable it would have no Value: as the author of the Eryxias showed

We have already frequently shown that all Jurists class Rights of action, whether written or unwritten, as Goods: Chattels: Commodities: Merchandise: which can be bought and sold like any materials, chattels, or like Money itself

And this species of Goods, Chattels, Commodities, Merchandise, has Value for exactly the same reason that any other merchandise or Money has Value: because it is Exchangeable. Money has Value only because it is exchangeable for products and services: and Credits or Debts have Value because they are exchangeable for Money

Thus we see that so long as ideas of Value are mixed up and founded on Labor the subject is plunged into inextricable difficulties and contradictions. But as soon as we adopt Exchangeability as test of Value, and the sole essence and principle of Wealth, as the ancients unanimously did for 1,300 years, and modern Economists are at last coming to do, all difficulties and obscurities are cleared up and dispersed like a fog before the morning sun

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[1] *Principles of Political Economy*, Bk. iii., ch. XII.

### *On the* **Error** *of the Expression* **Intrinsic Value**

**18.** We have now to say something about an expression which has been the cause of enormous confusion in Economics: which has been one of the chief stumbling blocks in the apprehension of the subject of Credit, and which must be cleared away

All ancient writers, as well as modern Economists until Adam Smith's deplorable confusion on the subject, clearly understood that the Value of anything is some other thing **External** to itself: and there is not to be found in any of them the slightest trace of any such confusion of ideas as the expression **Intrinsic Value**

It is not easy to determine when the unfortunate expression Intrinsic Value came into use. But it seems to have arisen in this way: when unreflecting persons thought about Value they thought of the Quality of the thing which made it desirable: and they called that its Value. They, therefore, gradually begun to speak of Intrinsic Value

So long ago as 1696 an able writer, Barbon, pointed out the confusion which had arisen from mistaking the Absolute Qualities of an object for the Quantity of things it would exchange for

He says[1]—"There is nothing which troubles this controversy more than for want of distinguishing between Virtue and Value

"Value is only the Price of things: and that can never be certain: because it must be there at all times and in all places of the same value: *therefore nothing can have an* **Intrinsic Value.**

"But things have an Intrinsic Virtue in themselves, which in all things have the same Virtue: the loadstone to attract iron: and the several Qualities that belong to herbs and drugs: some purgative, some diuretical, &c. But these, though they have great Virtue, may be of small Value, or no Price, according to the place where they are plenty or scarce : as the red nettle, though it be of excellent Virtue to stop bleeding, yet it is a weed of no Value from its plenty. And so are spices and drugs in their native soil of no Value but as common shrubs and weeds : but with us of great Value : and yet in both places of the same excellent Intrinsic Virtue. . . . . .

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[1] *A Discourse concerning coining the New Money lighter*, p. 6

"For these have no Value in themselves : it is opinion and fashion brings them into use and gives them a Value"

Barbon thus entirely refutes by anticipation the doctrine that Utility is the cause of Value, which has become rather common in the present day : and puts his finger on the phrase which has caused so much confusion in current Economics—Intrinsic Value—which is to confound an **Intrinsic Quality** with an **External Relation**

The following passage from Senior shows how easily even able men are beguiled into the error. He says[1]—"We have already stated that we use the word Value in its popular (?) acceptation, as signifying that Quality in anything which fits it to be given and received in exchange : or, in other words, to be lent or sold, hired or purchased

"So defined Value denotes a Relation reciprocally existing between two objects"

Now the Quality of a melon which fits it to be sold is its agreeable flavor : its flavor, therefore, according to Senior, is its Value (!) : and so defined, he says it means that it costs 5s. ! That is he defines the Quality of the melon to be its Price !

This is exactly the confusion which the Economists so carefully provided against. The Quality which makes a thing desirable is its *Value in use*, or its Utility : and the Economists repeatedly explained that Economics has nothing to do with *Value in use* or Utility : but only with *Value in exchange*, or Market Price

Smith, however, is chiefly responsible for the confusion on the subject in modern times. He begins by defining the Value of a thing to be any other Quantity it can purchase—to be something external to itself: and, therefore, that its Value increases or decreases, according as it can purchase more or less of that external thing

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[1] *Political Economy*, p. 13

He then suddenly changes his idea of Value, and defines it to be the Quantity of Labor expended in obtaining the object itself. Thus the Quantity of Labor expended in obtaining the object itself, came to be held to be its Value: and then Value came to be called Intrinsic

This unhappy phrase, Intrinsic Value, meets us at every turn in modern Economics: and yet the slightest reflection will show that to define Value to be something external to a Quantity: and then to be constantly speaking of Intrinsic Value are inconsistent and self-contradictory ideas

Thus over and over again it is said that Money has Intrinsic Value: but that a Bank Note, or a Bill of Exchange, are only representatives of Value

Money no doubt is the produce of Labor: but Smith himself says that if Money would exchange for nothing it would have no Value: so he admits that Exchangeability is the real essence of Value

How, then, can the Value of Money be Intrinsic? How can anything have Intrinsic Value unless it has the thing it will exchange for inside itself? Money will exchange for anything—lands, houses, corn, books, wine, jewelry, &c.: and each of these is *a* Value of Money: but which of these is its Intrinsic Value?

Money remains exactly the same in itself wherever it may be placed: a hogshead full of sovereigns has immense Value in the middle of London, but if a person had it by itself in a deserted ship in the middle of the Atlantic: or in a barren iland: where would its Value be? Yet if it has Intrinsic Value in one place it must have it equally in any other place

A Bank Note payable on demand is of the Value of Money: and why is it so? Simply because it is exchangeable for Money. Hence a Bank Note has Value for exactly the same reason that Money has: namely because it is exchangeable for something else. Credit is the Right to demand Money: and Money is the Right to demand products and services. Socrates, in the Eryxias shows that it is only when and where that Money can be exchanged that it has Value: when and where it cannot be exchanged it has no Value. So when a Bank Note or a Bill of Exchange can be exchanged, it has Value: when it cannot be exchanged it has no Value

Hence the Value of Money and Credits of all sorts is essentially of the same nature: though there may be different degrees of it. A Credit by the unanimous consent of all Jurists, Economists and Merchants is an article of Merchandise, and an exchangeable Commodity, just like Money: or any other material Chattel: and this whether it exists only in the abstract form of a mere Right: or whether it be recorded on Paper

The expression Intrinsic Value is so common that persons are apt to overlook its incongruity of idea. It is however a plain contradiction in terms: and if we use words of a similar import whose meaning has not been so corrupted in popular usage, its absurdity will be apparent at once

Thus, who ever heard of Intrinsic Distance, or of an Intrinsic Ratio? The absurdity of these expressions is apparent at once: but they are not a whit more absurd than Intrinsic Value. If we speak of the Intrinsic Value of Money, we may just as well speak of the Intrinsic Distance of St. Paul's: or the Intrinsic Ratio of five

To say that Money has Intrinsic Value because it is material and the produce of Labor: and that a Bank Note, or a Bill of Exchange, is only the Representative of Value: is just as absurd as to say that a wooden yard measure is Intrinsic Distance: and that the distance between two points one yard apart is only the Representative of Distance

## *A* Standard *of* Value *is* Impossible

**19.** That unfortunate confusion of ideas between Value being the Quantity of any other Commodity which any Quantity will purchase: and the Quantity of Labor embodied as it were in the thing itself: which is chiefly due to Smith and Ricardo: has not only led to that mischievous expression Intrinsic Value, the source of endless confusion in Economics: but also to the search for something which the very slightest reflection would have shown to be impossible in the very nature of things—namely, an **Invariable Standard of Value**

It is as well to explain what those Economists mean who are searching for an Invariable Standard of Value

If we had a British yard and any foreign measures of length before us we could at once perceive the difference between them: and if we were told the measurement of any foreign buildings, however remote in age or country in foreign measures, we could by a very simple calculation, reduce them to the standard of British measurement: and compare them with the size of our own buildings

Those Economists who want an Invariable Standard of Value want to discover and fix upon some single commodity by which they can compare the Value of other things in all ages and countries

But the least reflection will show that such a Standard is impossible in the very nature of things

Money indeed is termed the Measure of Value: and so it is in exchanges which are effected at the same time and place. If we are told that a quarter of corn is worth 40*s*., and that a sheep is worth 40*s*. at a certain time and place: we should say that they were then and there of equal value

But such matters are not the result of simple perception by the senses, as are the different measures of length and capacity. If a quantity of gold were placed beside a number of other things, no human sense could discern what their Value would be. And the most violent changes in their several Values might take place in the market, without there being any visible sign of such a thing. Value is a **Mental Affection**: and Values are not perceptible by ocular inspection, but they must be declared by the communication of minds

Moreover, it is not possible to ascertain the different Values of different Quantities of Gold obtained in different ages and countries. If a quantity of gold coin minted in the age of

Augustus: an equal quantity minted in the reign of Elizabeth: and an equal quantity minted in China: were placed side by side, what human sense could discern the difference in Value between them? And yet, that is what those Economists require who want an **Invariable** *Standard* **of Value.** They want something by which they can at once decide whether Gold is of more Value in A.D. 30: in A.D. 1588: or in A.D. 1893: in Italy, in England, or in China: without reference to anything else: just as we can discern the difference between British and Foreign measures by laying them side by side

But the only test of Value is an Exchange: and unless we can effect an Exchange, there can be no Value. How can we exchange an ounce of gold in the year A.D. 193 with one in the year A.D. 1593: or with one in the year A.D. 1893?

Bailey well says[1]—"Value is the relation between *contemporary* commodities, because such only admit of being exchanged with each other: and if we compare the Value of a commodity at one time with its Value at another, it is only a comparison of the relation in which it stood at these different times to some other commodity. It is not a comparison of some intrinsic independent quality at one period, with the same Quality at another period, but a **Comparison** *of* **Ratios**: or a comparison of the relative Quantities in which commodities exchanged for each other at two different epochs. If a commodity A in the year 100 was worth 2 B, and in 1800 was worth 4 B, we should say that A had doubled its Value to B. But this, which is the only comparison we could institute, would not give us any relation between A in 100 and A in 1800: it would simply be a comparison between A and B in each of these years

"It is impossible for a direct ratio of Value to exist between A in 100 and A in 1800: just as it is impossible for the relation of distance to exist between the sun at the former period and the sun at the latter period"

The fact is that all this search after the impossible arose from Smith's unfortunate idea that the Value of a thing is the

[1] *On Value*, p. 72

Quantity of Labor bestowed on obtaining it: which was also adopted by Ricardo

From this idea it followed that if any commodity could always be obtained with an invariable Quantity of Labor it would be an Invariable Standard of Value. Ricardo admitted that there is no commodity which is always obtained with an invariable Quantity of Labor: and therefore for that reason alone he admitted that an Invariable Standard of Value is unattainable

An Invariable Standard of Value, however, is not only unattainable for the reason given by Ricardo, but it is in itself absolutely impossible by the very nature of things. Because **Value** is a **Ratio**: and **a Single Quantity** *cannot be the* **Measure** *of a* **Ratio**

A measure of length or capacity is a single Quantity: and can measure other single Quantities: such as different lengths, or bodies of capacity. But Value is a Ratio, or a Relation : and it is utterly impossible in the very nature of things that a single Quantity can measure a Ratio, or a Relation

It is impossible to say that $a : b :: x$. It is manifestly absurd to say that 4 is to 5 as 8 : without saying as 8 is to what : just as it is absurd to say that a horse gallops at the rate of 20 miles: without saying in what time

### *But there may be a* **Measure** *of* **Value**

**20.** But though a Standard of Value is impossible by the very nature of things, there may be a **Measure of Value**

Value being an Affection of the Mind, or the Desire or Demand of a person to acquire some object: the Quantity of Money he is willing to give to acquire it is the Measure of his Desire to obtain it: and therefore the **Measure** of his **Value for it**

But Credit is also equally a Measure of Value, as well as Money. Neither a merchant nor any one else will give more in Credit, which he is bound to redeem in Money, to acquire any commodity, than he would give in Money itself. But if he wants anything, he will give just as much in Credit as he would in

Money. Hence Credit is equally a Measure of Value, or Desire, with Money

Hence Money and Credit are the Measure of Value: and as it is universally admitted by all Economists that purchases with Credit affect prices in all respects equally with Money: it follows that the aggregate of Money and Credit is the Medium in which Prices are measured: and that the aggregate of Money and Credit constitutes the Circulating Medium, or Currency

### **Value** *exists only in the* **Human Mind**

**21.** Value, then, like Color, Sound, and Odor, exists only in the Human Mind. There is neither Color, nor Sound, nor Odor in external nature: they exist only in the Human Mind

According to the unanimous doctrine of ancient writers and all foreign Economists, Demand is the sole Origin, Form, or Cause of Value. It is Demand, or Consumption, and not Labor, which gives value to a product. It is not the Labor which gives Value to the product, but the Demand for the product which gives Value to the Labor

Hence it is not Labor which is the Cause of Value: but Value which is the inducement to Labor. It is not the Labor of the Producer which constitutes a thing Wealth: but the Demand of the Consumer

We conclude, then, that it is not Labor, but Consumption, Exchange, or Demand, which constitutes a thing Wealth: and we trace the progress of a nation in wealth, according as their wants and desires increase and multiply. First, the demand for the sustenance required by the body gives Value to the material products of the earth, food, clothing, shelter, fuel. Then as their tastes become cultivated and refined arises the demand for works of literature, art and science: for painting, for sculpture, for architecture, for the drama, for music. And those who minister to these wants of the mind become wealthy, just as those who minister to the wants of the body do. It is the demand of the public alone which makes these things Wealth. Hence, in order to be wealthy a people must be inspired with strong and various desires: and be willing to work to gratify those desires. And this shows the great importance, in an Economical point of view, of national education. Heavy taxes can alone be borne by an industrious and wealthy people: and the multiplication of wants and desires multiplies industry, multiplies Capital, multiplies incomes, multiplies the numbers of persons able to bear the burden of taxation: and renders the nation capable of great achievements: and of taking a leading position in the councils of the world

## Section III

### *On the* General Law *of* Value : *or the* General Equation *of* Economics

**22.** The last branch of our inquiry is to discover the General Law of Value: or the General Equation of Economics. That is, to discover a Single General Law which governs the Exchangeable Relations of all Quantities whatever their nature may be, at all times, and in all places

The acknowledged principles of Natural Philosophy show that there can be only **One** General Law of Value: or a Single General Equation of Economics

We have shown that there are three distinct Orders of Economic Quantities: and we have generalised all the Fundamental Concepts of Economics so as to grasp all these Quantities.

These three Orders of Quantities can be exchanged in **Six** different ways. Our present inquiry is to investigate a Single General Equation which shall govern all these six species of exchanges indifferently

Suppose that we make £ the general symbol of an Economic Quantity: *i.e.*, of anything whatever which can be bought and sold, or exchanged: or whose Value can be measured in Money: or which has purchasing power—and representing these various Quantities under the general symbol £, we may say that there are in every country Quantities of this sort—

£459,621,340
£278,234,500
£826,342,784
&c., &c., &c.

Now we affirm by virtue of the great principle of the *Continuity of Science*, and of the great Algebraical doctrine of the *Permanence of Equivalent Forms*, that whatever can be proved to be true Economically of any one of this series of Quantities must be true of them all

Now looking at the series of Quantities placed above, who could tell of what species they are? Some may be land: some houses: some corn: some timber: some cattle: some jewelry: some money: some labour of different sorts; some Credit or Debts: some the Funds: or other public obligations: some copyrights: some patents: some Shares in Commercial Companies, &c.

Now as we have shown that Materiality, Permanence, and Labor are only accidentally associated in some cases with Economic Quantities, and not with all: and that Exchangeability is the only Quality which is common to all Economic Quantities: it follows that Materiality, Permanence, and Labor must be excluded from any General Concept of an Economic Quantity: and Exchangeability retained as its sole general Quality

Having thus obtained these Independent Economic Quantities, the whole purpose and object of the Science is to discover the Single General Law which governs the variations of their Exchangeable Relations. It is clear that by the principle of the *Continuity of Science*, and the analogy of all Physical Sciences, however varied and complicated the different phenomena of Value may be: there can, by no possibility, be more than **One General Law of Value**: or a single General Equation of Economics: whatever it may be

## Fundamental Conditions *of the* General Equation *of* Economics

**23.** Now, let A and B be any two Quantities whatever supposed perfectly general: it is quite clear that their Exchangeable Relations are contained within the following limits—

$$\begin{aligned} \infty A &= 0 B \\ \&c. &= \&c. \\ 2 A &= B \\ A &= B \\ A &= 2 B \\ \&c. &= \&c. \\ 0 A &= \infty B \end{aligned}$$

The meaning of which is simply this—Let the Exchangeable Relation between A and B gradually and continuously change from where the greatest possible Quantity of A will exchange for the least possible Quantity of B : to where the least possible Quantity of A will exchange for the greatest possible Quantity of B

Now the *Law of Continuity* says that a Quantity cannot pass from one amount to another by any change of conditions without passing through all intermediate degrees of magnitude according to the intermediate conditions

Hence, we affirm by virtue of the *Law of Continuity*—

1. *That if it can be indubitably proved that* Any *particular Law is true at any* One *point in the range of Prices : that same Law must be necessarily true at* All *points throughout the whole range of Prices*
2. *That as the symbols A and B are perfectly general, if any Law whatever can be proved to be true in the Variations of the Exchangeable Relation of* Any *Two Quantities whatever, that Law must necessarily be true in the Exchangeable Relations of* All *Quantities whatever*

Thus, by the *Law of Continuity* we are enabled to affirm that—

*If any Law whatever can be proved to be true at any one point in the range of Prices, between any Two Quantities whatever, that same Law must necessarily be true at* All *points in the range of Prices, and between all Quantities whatever*

And as a necessary corollary from the preceding, we may affirm that—

*If any Law can be proved* Not *to be true with regard to the Relation of* Any *Two Quantities whatever, that Law cannot be a General Law of Economics*

Furthermore, as it is a universally acknowledged principle of Natural Philosophy that that Law only is the true one which explains all the phenomena, it may be laid down as an unquestionable truth in Economics that—

*If two or more Forms of Expression will explain or account for any phenomena regarding Price, or the change of Price, that Form of Expression only is to be adopted as the true one which explains* All *the phenomena in the Science, and not that particular case, or class of cases, only*

Now as we have shown in the Introduction that the Ricardo-Mill Theory of Value violates every one of these fundamental principles of Natural Philosophy—and as Mill himself says that the Laws of Economics are to be formed by consciously and deliberately following the methods adopted in Physical Science—it follows that the Ricardo-Mill Theory of Value is to be utterly rejected, and we have now to investigate the True Law of Value: or the General Equation of Economics

Economics is a Physical Science because it is a pure Science of Causes and Effects. There being three Orders of Exchangeable Quantities, and, therefore, Six different kinds of Exchange, the object of the Science is to determine the Laws of the phenomena of these exchanges—that is, to determine the laws which govern the changes in their numerical Relations of Exchange. Hence we have a new Order of Variable Quantities: and the Laws which govern this new Order of Variable Quantities must be in strict harmony with the Laws which govern the Relations of Variable Quantities in general. The same general principles of reasoning which govern the relations of the stars in their courses must govern the varying relations of Economic Quantities

The fact is that Astronomy is the physical science which is the type of Economics. The fundamental problem of Economics is identically the same as the fundamental problem of Astronomy. The Astronomer sees a number of Quantities—the heavenly bodies—moving in all sorts of directions—sometimes advancing, sometimes apparently stationary, sometimes retrograding—and his object is to discover a Single General Law which accounts for and governs all these varying relations. So the Economist sees a vast multitude of Quantities constantly changing their numerical relation to each other, and his object is to discover a single General Law which governs all these varying relations. Economics, like Astronomy, is a pure Science of Ratios

### Lord Lauderdale's Law *of* Value

**24.** Now, how is the great General Law of Astronomy determined? In this way. Let the heavenly bodies at any given instant be in any position. They then change their positions: the problem is to discover the Law which governs these changes of relation

We must proceed in exactly the same way in Economics

Let any number of Economic Quantities at any given time have any given relation to each other. They then change their relations to each other: then the problem is to discover the single General Law which accounts for and governs these changes of relation

Lord Lauderdale states the case in this way—

Take any two Quantities, A and B, which may vary with respect to each other. First let A remain constant while B varies

Then the ratio of B to A will change from **Four** Causes

It would **Increase** in **Value**—

1. From a **Diminution** of **Quantity**
2. From an **Increase** of **Demand**

It would **Diminish** in **Value**—

1. From an **Increase** of **Quantity**
2. From a **Diminution** of **Demand**

Now, as the Variation of A with respect to B will be governed by exactly the same Four Causes: it is quite clear that the Variation of both Quantities will be governed by **Eight** Independent Causes: and if these be connected in the form of an Equation, that will manifestly be the true **General Law** of **Value**: or the true **General Equation** of **Economics**

And as it is in the form of a fraction containing no less than Eight Independent Variables, it at once shows the supremely complicated nature of the Science

Lord Lauderdale has thus the credit of having established the true General Equation of Economics. This comprehends the whole science of Pure, or Analytical, Economics: exactly as the great Law of Newton's governs the relations of the heavenly bodies

This complicated Equation is the full expression of what is popularly known as the Law of Supply and Demand. All Economists admit that it is true when the prices of things are very low : they also admit that it is true when the prices of things are very high : they therefore admit that it is true at the **extremes** of prices : and, therefore, as it is true at the **extremes** of prices : the **Law of Continuity** affirms that it is necessarily true at all points in the range of prices between the extremes: that is that it is universally true: and therefore that it is the true General Law of Value: or the true General Equation of Economics

### *Remarks on the General Equation of Economics*

**25.** The General Equation of Economics is, therefore, a Compound Ratio of a very complicated nature : and to apply it to particular cases requires a profound knowledge of the circumstances of the case : but yet it is demonstrably true : and the whole Science must be constructed, taking that Equation as the basis

In obtaining this General Equation we have followed the method invariably used in all Physical Science. We have obtained the Independent Variables, and connected them by a General Law, or Formula. This insures **Certainty** to the Science : but it is on the last point that the real difficulty arises : namely, in giving Precision, or Numerical amounts, to the Co-efficients. It is absolutely impossible to say what numerical variations in Supply and Demand produce definite variations in Value. This has been attempted in some cases, as in that of corn : but it is manifestly impossible to obtain exact numerical data : and in fact though the same General Law is true in all cases, it is perfectly well known that it varies in every particular case : and that the same absolute variation in Supply and Demand in various Quantities will produce great differences in the variations of their numerical Values

It is this impossibility of giving exact numerical Values to the co-efficients which makes many persons suppose that it is impossible to make Economics an **Exact** science. It is sometimes supposed that for a science to be an exact one, it is necessary that its Laws should be capable of exact Quantitative statement. This, however, is an error which has been specially pointed out by Comte, who well shows the difference between Certainty and Precision in Science. To constitute an **Exact** Science, it is not necessary that its laws can be ascertained with numerical **Precision**: but only that the **Reasoning** be **Exact**, or **Certain.** He says that a dangerous prejudice has sprung up: that because the **Precision** of different Sciences is very unequal, their **Certainty** is so too. This tends to discourage the study of the most difficult: Precision and Certainty are perfectly distinct. An absurd proposition may be very precise: as that the angles of a triangle are equal to three right angles. On the other hand, a Certain proposition may not be Precise: as that a man will die. Hence though the different sciences may vary in **Precision**, that will not affect their **Certainty**

This observation applies most forcibly to Economics. Some persons are apt to despise it because it does not bring out its results with the same precision as Mathematics. This, however, is a grievous mistake. In Economics the Causes of Phenomena can be ascertained with absolute certainty: this is all that is necessary to constitute Economics an **Exact** science. Because the method of producing a required result being pointed out with absolute certainty, it has only to be put into force until the result is produced

In considering the General Equation of Economics we see the application of Bacon's aphorism[1]—"That which in Theory is the Cause, in Practice is the Rule"

No other Quantities but Demand and Supply appear on the face of the Equation: it is therefore certain that no other Causes influence Value, or changes of Value, except Intensity of Demand and Limitation of Supply. It is certain that neither Labor nor Cost of Production have any **direct** influence on Value: it can only be by affecting the Demand or the Supply: and that no change of Labor, nor of Cost of Production, can have any influence on Value, unless they produce a change in the relation of Supply and Demand

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[1] *Nov. Org.*, Bk. 1, Aph. 3

By this means we are enabled to create a rigorously **Exact** Theory of Economics: and by reverently following the precepts of the mighty prophet of Inductive Philosophy, and the immortal creators of the various Inductive Sciences, it is seen that Economics, as a Moral Science, is fitted to take rank with Mechanics and Optics as a great Positive Inductive Physico-Moral Science: and it is the only Moral Science capable of being raised to the rank of an Exact Science

In interpreting, however, the General Equation of Economics it is necessary to make an observation. It is sometimes supposed that Value is only affected by the actually existing quantity of produce which is brought into the market. This, however, is not so. The expected quantity which may be brought into the market has a most important influence on the value of the existing Quantity. If there was a general failure of the coming crops, that would exert a most potent influence on the present Value of the existing stock. Or if prices had been very high in consequence of great scarcity of supplies and the coming crops promised to be very abundant, that would exercise a most potent influence in diminishing the Value of the present stock. Hence the word Quantity in the general Equation must denote the Quantity, *actual* or *expected*

Similarly the word Demand must denote the Demand, *actual* or *expected*

# CHAPTER III

## THE THEORY OF CREDIT

### *Preliminary Remarks*

We have now to explain the organisation of the great System of Credit—that is to say, the **Creation**—the **Circulation**, and the **Extinction** of **Credits** or **Debts**—the great marvel of modern commerce. What the Steam Engine is in machinery, what the Differential Calculus is in Mathematics, that is Credit in Commerce

Demosthenes was the first person that we are aware of, even in the very rudimentary state of Credit in his day, to perceive and declare that Credit is Wealth and Capital

The Roman and Greek Jurists unanimously declared that Rights of action, *i.e.*, Credits, or Debts, are Wealth, goods and chattels, merchandise, saleable commodities

While the mole-eyed Economists of the last century declared that all Wealth is the product of land and labor, a sentiment which is by no means extinct at the present day, that keen-sighted metaphysician, Bishop Berkeley, repeatedly declared in his Queries[1] that Money and Credit are essentially of the same nature: and that Money is only the highest form of Credit: and even in his day he asks[2]—"Whether the Wealth of the richest nations in Christendom doth not consist in **Paper** (*i.e.* **Credit**) vastly more than in gold and silver"

The Economists steadfastly refused to admit that Credit is Wealth: but all the mercantile Economists were dead against them on this point

We have already shown that Adam Smith and J. B. Say include Credit under Wealth and Capital

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[1] *See* p. 76, *ante*

[2] *Query*, 427

John Stuart Mill says[1]—"An Order, or Note of hand, or Bill of Exchange payable at sight for an ounce of gold, while the Credit of the giver is unimpaired, is worth neither more nor less than the gold itself"—which shows that he recognised Instruments of Credit as independent Property

He also says[2]—"But we have now found that there are other things, such as Bank Notes, Bills of Exchange, and Cheques which circulate as Money: and perform all the functions of it"

Truly said Daniel Webster[3]—"Credit is the vital air of modern commerce. **It has done more, a thousand times, to enrich nations, than all the mines of all the world.** It has excited labor, stimulated manufactures, pushed commerce over every sea, and brought every nation, every kingdom, and every small tribe among the races of men, to be known to all the rest: it has raised armies, equipped navies, and triumphing over the gross power of mere numbers, it has established national superiority on the foundation of intelligence, wealth and well directed industry. **Credit is to Money what Money is to articles of merchandise**"

So says M. Gustave du Puynode[4]—"However fruitful have been the mines of Mexico and Peru, in which for a long time after Columbus, seemed buried the fortune of the world, there is yet a discovery more precious for humanity, and which has already produced more wealth than America: that is the discovery of **Credit**, a world altogether imaginary, but vast as space, inexhaustible as the resources of the mind"

It is one of the most elementary principles of Law that a Credit, or Debt, is a species of Property

Thus Mr. Williams says[5]—

"*Choses-in-action* (*i.e.*, Credits, or Debts), having now become assignable, become an important kind of Personal Property"

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[1] *Princ. of Pol. Econ.*, Bk. III., ch. xii., § 1

[2] *Ibid.*, Bk. III., ch. xii., § 5

[3] *Speech in the Senate of the United States*, 18 March, 1834

[4] *De la Monnaie, du Crédit, et de l'Impôt*, p. 110

[5] *Law of Personal Property*, p. 5

Again[1]—"A legal *Chose-in-action* constitutes a valuable Personal Property"

Also—"In addition to goods and chattels in possession, which have always been personal property, and to **Debts** which have long been considered so"

So, also, Mr. Justice Byles says[2]—"This species of Property (Bills and Notes) is now in aggregate value inferior only to the land, or funded debt, of the kingdom." If we include all Credit, it exceeds many times the funded debt

So Chancellor Kent says[3]—"As they serve the purposes of cash, facilitate commerce, and are the visible representatives of property, they may be truly said to enlarge the Capital Stock of Wealth in circulation, as well as to increase the trade of the country"

At the present time Credit is by far the most gigantic species of Property in this country, and the trade in Debts is beyond all comparison, the most colossal branch of commerce. The subject of Credit is one of the most extensive and intricate branches of Mercantile Law. The merchants who trade in Debts—namely **Bankers**—are now the Rulers and Regulators of Commerce: they almost control the fortunes of States. As there are shops for dealing in bread, in furniture, in clothes, and every other species of property; so there are shops, some of the most palatial structures of modern times, for the express purpose of dealing in Debts: and these shops are called **Banks**

And as there are corn markets and fish markets, and many other sorts of markets: so there is a market for buying and selling Foreign Debts: which is called the Royal Exchange. Thus Banks are nothing but Debt Shops: and the Royal Exchange is the great Debt Market of Europe

It was out of discussions on the Nature of Credit that the modern Science of Economics took its rise: and yet it is the subject which has been least understood, if that be possible, by Economical writers. Considering the mighty part which Credit plays in modern commerce, and the effects it has had for weal or for woe upon nations, we should naturally have expected that Economists would have thoroughly worked out the subject, and have been unanimously agreed upon its nature and effects. So far is this from being the case, that upon no subject whatever, if that be possible, are they more utterly at variance with each other, and with themselves. They have, as we have quoted, some perfunctory passages extolling the powers of Credit, but there is not one who ever had any more conception of the principles and mechanism of the great System of Credit than a mole has of the constitution of Sirius

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[1] *Law of Personal Property*, p. 8

[2] *A Treatise on Bills of Exchange, Preface*

[3] *Commentaries on American Law*, vol. III., p. 87

The descriptions I have quoted of the marvellous powers of Credit are undoubtedly true, but unfortunately there is a reverse to the medal. If Credit in modern times, when rightly used, has produced all these wonderful effects : when misused it has produced catastrophes of a corresponding magnitude. False Theories of Credit, and the abuse of Credit, have produced Monetary Cataclysms which have shaken nations to their foundations, and whose direful effects have only been equalled by those of the most disastrous wars

In the following chapters we shall explain the great Juridical and Scientific principles of the Theory of Credit : and show how they are applied to the practical business of Mercantile Credit—Banking—and the Foreign Exchanges. And then we shall point out the fallacies of those false systems of Credit which have produced such calamities in the world

## Section I

### Origin *of the* System *of* Credit *in Europe*

**1.** If it were asked how that wonderful people, the Romans, commencing with a petty village, gradually extended their Empire over so large a portion of the world, it would probably be said that it was due to their hardihood and their discipline. But probably a cause which has been entirely overlooked, contributed in no slight degree to the result—and that is their wonderful and methodical habits of business

The Romans were, as far as we are aware, the creators of the great system of Credit in all its branches

When the practice of writing became general at Rome, a very strict custom or law grew up. It was established that every *Dominus*, or head of a house, should keep a great family ledger, as strict and exact as those of a modern banker. In this every incident of his life was recorded. In this he was obliged to enter all sums of money borrowed and lent: all trade profits and losses: all his revenues and profits, his outgoings, and expenses of every description.[1] These family ledgers were the only legal evidence of debt among Roman citizens receivable in Courts of Justice. And it was from these family ledgers that the whole of the modern system of bookkeeping and Credit has been developed

It seems that every occurrence was noted down day by day in a waste book, termed *Adversaria*: and at the end of the month the various items were arranged under their proper heads in the Ledger, which was termed *Tabulæ*, or *Codex accepti et expensi*, which was intended to be preserved as an heirloom in the family. Every five years the *Dominus* was obliged to swear to the truth of the *Codex* before the Censors: and it was regarded as invested almost with a species of sanctity

A great difference was made between the *Adversaria* and the *Codex*. Cicero says[2]—"He acknowledges that he has not the sum entered in his Ledger (*Codex*): but he insists that it is entered in his day-book (*Adversaria*). Are you then so fond of yourself, and have such an exalted opinion of yourself, as to sue for money, not on the evidence of the Ledger, but of your Day-book ? It is arrogant to bring forward your Ledger. instead of witnesses : but is it not madness to bring forward your own scraps of writing and notes ? If these notes have the same force and weight and authority as the Ledger, what is the use of making a Ledger ? to make entries in it ? or to keep it in regular order ? or to make a permanent record of old writings ? But if we have an established custom to make a Ledger because we put no trust in notes : is that to be considered of weight, and approved before a judge, which we ourselves consider weak and unreliable ? Why is it that we write notes without much care, and we write the Ledger with great care ? Because the one is to last a month and the other is to last for ever. The former are soon erased : and the others are preserved with religious care : the former preserve the memory for a short time, the latter pledge the good faith and honesty of a man for ever. Notes are thrown away : the Ledger is kept in order. Therefore nobody produces notes in evidence in a cause, but they do produce the Ledger, and read the entries."

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[1] *Ortolan, Explication Historique des Instituts*, § 1,416

[2] *Pro Roscio Comoedo*

This family Ledger was kept in the *Arca*, the chest or safe in the *Tablinum*, or apartment opposite the door of the *Atrium*, or central hall of the Roman house, where all the records and archives were kept

### *The* System *of* Credit

**2.** The great System of Credit comprehends—
1. The **Creation** of **Obligations**
2. The **Transfer** of **Credits, or Debts**
3. The **Extinction** of **Obligations**

which will be fully discussed in the following sections

The following is a short sketch of the history of the Theory of Credit—

Demosthenes about 350 B.C. first perceived and declared that Credit is Wealth and Capital

But Concrete Practice has always preceded Abstract Theory

The Romans invented book-keeping, and the business which in modern language is technically termed Banking: the Roman bankers invented Cheques and Bills of Exchange: and the Roman Jurists elaborated the juridical Theory of Credit

Some of the elementary principles of Credit are set forth in the Institutes of Gaius, which was the text-book for students from the age of the Antonines till Justinian

But the Jurists Ulpian, Modestinus, Paulus, Javolenus and Papinian, the greatest Jurists the world ever saw, worked out the complete Juridical Theory of Credit—except only on one point. And from the emphatic way in which certain elementary principles are laid down by these writers, it is quite clear that there were silly persons at Rome who chattered about Credit, just as there are at the present day. The principles elaborated by these great Jurists were incorporated in the Pandects of Justinian and in the Basilica, and have been the Mercantile Law of Europe ever since. They are contained in every Continental text-book of Jurisprudence: but on this subject English text-books are lamentably defective

The doctrines of the Roman Jurists were, however, inadequate for the complete Theory of Credit: as they chiefly regarded the subject from the Creditor's side, and only very slightly from the Debtor's side

But in every Obligation there are two sides: the Creditor's, or the Active, or Positive, side: and the Debtor's, or the Passive, or Negative, side

Accordingly for the last 150 years, from the days of Maclaurin at least, mathematicians have been in the habit of terming Debts **Negative Quantities.** But very few have given any explanation of what they mean by terming a Debt a **Negative Quantity:** and those who have done so, from a want of knowledge of the principles of Mercantile Law, and the facts of Commerce, have entirely failed in giving an explanation which can be received as suitable for Economic science

If the subject had been handled by mathematicans who were well trained in Mercantile Law and practical business, there never would have been the slightest difficulty. But, unfortunately, it has been treated by a series of literary and mathematical writers, who were entirely deficient in the necessary knowledge, and they have fallen into a mass of errors, which are fully provided for in the Digest, and in every Continental treatise on Jurisprudence

It is well known that although mathematicians have been in the habit of using the Algebraical Signs, or their equivalents, for 1600 years, and have given the empirical rules for their combination: it is only within the present century that their scientific principles have been understood: and only within the last sixty years that they have been explained in popular treatises on Algebra. We must therefore explain the modern Theory of Algebraical Signs, and their application in mathematics and physical science: and then give an exposition of the principles of Mercantile Law and the facts of Commerce: and then discover the interpretation of these Signs which is suitable for the particular circumstances of Economics

By applying the principles of the great modern Theory of Algebraical Signs, combined with the subtlest and most abstruse principles of Mercantile Law and practical business, I have demonstrated the Theory of Credit simultaneously from the Creditor's side and the Debtor's side

One difficulty, however, the Roman Jurists were unable to solve, and it had hitherto been regarded as insoluble

In 1888 I at last succeeded in solving this difficulty; which was first fully done in the first edition of this work: and the Theory of Credit is now absolutely complete

Thus, from the year 350 B.C. to 1888 A.D., it has taken 2,238 years to bring the Theory of Credit to absolute perfection

The doctrines of the Roman Jurists are of course expressed in words. But we shall find that Jurists working separately: Algebraists working separately: and the practice of Mercantile men acting separately and independently from their own instincts: are all in perfect harmony with each other. And when we fuse these three together—an exposition of the facts of Commerce—an exposition of the Juridical Theory of Credit—and show the application of the Theory of Algebraical Signs to these facts of Commerce and Juridical principles of Credit—we shall find a most beautiful exemplification of the use of these Signs strictly in accordance with their use in Mathematics and Physical Science

It is too often the custom to consider the system of Credit as pure haphazard empiricism. The following sections will show that this is an entire error: and that the whole system may be reduced to the strictest scientific demonstration: we shall be able to carry the Theory of Credit to a greater state of perfection than it was left by the Roman Jurists, by removing an obscurity which has puzzled Jurists and divines for centuries: and we shall be able for the first time to bring Economic Theory to the level of Mercantile Practice

## Section II

## ON THE CREATION OF OBLIGATIONS

### *On the Method of* Contracting *a* Loan *among the Romans*

**3.** For many centuries the Romans divided Property into two classes, according to the manner by which it might be alienated, sold, or transferred. That species of property which they first possessed, and were first accustomed to consider as the patrimony of the house, or *Domus*, they termed *Res Mancipi:* and this could only be transferred by certain very strict formalities. Other property which they held in less esteem at first, or which they acquired afterwards, might be transferred by simple delivery. This kind of property was termed *Res nec Mancipi*

The list of property classed as *Res Mancipi* was formed in the earliest ages of the Republic : and was never extended beyond its first limits. All new species of property was classed under *Res nec Mancipi*

Thus the Money of the early Romans was copper: and accordingly copper money was included under *Res Mancipi:* but gold and silver money were of much later introduction, and they were classed under *Res nec Mancipi*

Rural servitudes in Italy were classed as *Res Mancipi:* but the Rights of Obligations, as well as all other Incorporeal Property, were classed as *Res nec Mancipi*

The sale or alienation of the *Res Mancipi* could only be effected by certain very strict formalities, which were necessary to insure a good title, in an age when written conveyances were unknown. This form of sale was termed *Mancipium*, or *Mancipatio.* Gaius says that it was effected in the presence of five witnesses, Roman citizens of full age, and also another citizen, who held the pair of bronze scales, and hence called *Libripens.* The purchaser holding a bronze ingot said thus—" I say that this man is mine by the Common Law of the Romans, and that he is bought by me with this bronze ingot and bronze scales." He then struck the scales with the ingot, and gave it to the seller as representing the price

As has been shown, every Loan of Money is a **Sale,** in which the property in the Money is ceded to the borrower. The Money thus ceded was called a *Mutuum:* because it was given in exchange for the Right to demand an equal sum at a future time. As *aes* was a *Res Mancipi*, every Loan of Money required to be made by the *Mancipium*, or the Sale *per æs et Libram*. But the Right of the Obligation was a *Res nec Mancipi*, and, therefore, it might be transferred in other ways

The Bond of Law created between the two parties by the Sale, or Loan, of the *Mutuum* by the formality of the *æs et libra* was termed a *Nexus, ûs:* and *Nexus* was the only term used in the time of the XII. Tables (451 B.C.) to denote a Contract, or an Obligation

In course of time the cumbrous form of the *æs et libra* was dispensed with : and a Contract or Obligation could be created by simpler methods. These were the *Obligatio re:* the Obligation which was created by the Loan or advance of the thing itself: the *Obligatio verbis*, or the Verbal Contract, termed *Stipulatio:* the *Obligatio litteris*, or the Written Contract, created by entries in the family Ledger: and finally the *Obligatio consensu*, or the Consensual Contract, created by mutual consent without any formalities

### *On the* **Stipulatio**: *or* **Verbal Contract**

**4.** The **Stipulatio,** or **Verbal Contract,** was made by solemn question and answer in the presence of witnesses. It was the most extensive form of making a Contract in Roman Law : and all other Contracts might be transformed into a Stipulation

Supposing that the *Stipulatio* was employed to create an Obligation, or Contract of Debt, the lender delivered the sum lent to the borrower, and asked him a question of this sort—

"Do you promise to deliver to me such a sum at such a date?"

The borrower answered "I do": and thus the Contract or Obligation was created

It is said in the Institutes (iii., 15), that Stipulatio comes from stipulus, an old word for firm, certain, ascertained; which perhaps may come from *stips*

The person who asked the question was termed *Stipulator:* or *Reus stipulandi*

The person who answered was termed *Promittor:* or *Reus promittendi*

The Stipulation, or Contract by question and answer, could only form a Unilateral Contract: or one in which only one party is bound. If a Bilateral, or Synallagmatic, Contract was to be created, it was necessary to perform two Stipulations

Several examples of *Stipulatio* occur in Plautus: as in *Asinaria*, ii., 4, 18: *Pseudolus*, i., 112: iv., 6, 15: *Curculio*, v., 2, 68: 3, 31, 33: *Bacch.*, iv., 8, 41: *Trinummus*, v., 2, 34, 39: *Rudens*, v., 2, 47

The Marriage Service of the Church of England is an example of a Bilateral Contract effected by two Stipulations

The priest says to the man—"Wilt thou have this woman to thy wedded wife?" The man answers—"I will"

The priest then says to the woman—"Wilt thou have this man to thy wedded husband?" The woman answers—"I will"

And by these two Stipulations the Bilateral Contract of marriage is created

## *On* Arcaria Nomina

**5.** It was the duty of every Roman *Dominus*, or head of a house, to make an entry of every sum borrowed or lent in his Ledger, *Tabulæ* or *Codex*

If, therefore, he had lent a sum of Money by any of the methods of making a Loan, the Creditor would duly enter it in his Ledger at the end of the month. When he had made this entry it was termed *Arcarium Nomen:* and the Debtor was bound to make a corresponding entry in his Ledger

But such an entry as this in the Creditor's Ledger was not the Contract: it was only evidence of the Contract. The Contract was created by the actual advance of the Money. It was of course absurd to suppose that any one could make any one else his Debtor by simply making an entry against him in his Ledger.

Cicero says that it is equally base for a man to make a false entry of money lent in his Ledger, as not to make an entry of money borrowed

### *On the* Obligatio Litteris : *or* Written Contract

**6.** But an actual Contract, or Obligation, might be made by an entry in the Ledger

The borrower came to the lender, and in the presence of witnesses, the lender advancing the Money, said to the borrower something of this sort—

"Centum aureos expensos tibi tuli ?"

"*Have I weighed out and given you* 100 *aurei*"

The borrower said—"Expensos mihi tulisti"

"*You have weighed them out and given them to me*"

The Creditor, then, with the consent of the Debtor, made a formal entry of the Loan in his Ledger : which was termed **Expensilatio**

The Debtor made a corresponding entry of money received in his Ledger : which was termed **Acceptilatio**

The money when advanced by the Creditor was termed *pecunia expensa lata:* and when received by the Debtor, *pecunia accepta relata*

An entry of money lent made in the Creditor's ledger with the consent of the Debtor, was absolutely conclusive, and could not be questioned. It formed a valid Contract itself : whether the money had been actually advanced or not.* And if an action was brought for the money, the judge could make no inquiry into the actual facts. A solemn entry made with the Debtor's consent was equivalent to a *Stipulatio*

And thus the *Obligatio Litteris*, or Written Contract was constituted

### *The* **Obligatio Consensu**: *or* **Consensual Contract**

**7.** In the year 469 A.D. the Emperor Leo abolished the strict formalities of the Stipulation: and enacted that a consent given in any form should be valid, if the parties agreed to it

As an example of a Consensual Contract, we may give the Customs of Trade. All trades, such as bankers, have certain well known and recognised Customs, which though they may be unwritten are legally valid: and all persons who have dealings with them give a consent to be bound by them

### *On the* **Creation** *of* **Obligations**

**8.** Personal Credit, or Mercantile Character, is Purchasing Power: and, as first pointed out by Demosthenes, and now universally acknowledged, is Wealth. But Personal Credit does not enter into Economics until the merchant actually exercises his Credit, and makes a purchase with it

When a merchant purchases goods "on Credit" it is an absolute sale, just as much as if it had been effected with money. He acquires the actual property in the goods as fully and effectually as if he had paid for them in money. In exchange for the goods he gives his Promise to pay their price at a future time. That is he creates a Right of action against himself. This Right of action is a Credit, or *Créance*, or Debt, and is the Price of the goods, and is the property of the seller

Thus, at the very instant that the Property in the goods is transferred to the buyer, a Contract, or Obligation, is created between the two parties, which consists of two parts—

1. The **Right to demand** payment in the person of the seller, or Creditor
2. The **Duty to pay** in the person of the buyer, or Debtor

These two Quantities constitute the Contract, Obligation, or Bond of Law between the two parties

The Obligation consists of two equal and opposite Quantities: and may be denoted by this symbol $\left\{ \begin{matrix} + \pounds 100 \\ - \pounds 100 \end{matrix} \right\}$: where the

(+ £100) denotes the Creditor's **Right to demand** payment: and the (— £100) denotes the Debtor's **Duty to pay**

Also if either of these Quantities be destroyed, the other is also destroyed with it

Hence, as these two Equal and Opposite Quantities come into existence together: can only exist together: and vanish together: they are analogous to Polar Forces

### **Division** *of* **Opinion** *among Jurists as to the* **Position** *of the* **Debtor** *in an* **Obligation**

**9.** We have now come to the most subtle and abstruse point in all Economics, which will demand the closest attention: because it is the great Serbonian bog in which multitudes of writers, literary and mathematical, have been swallowed up, from a want of knowledge of the most elementary principles of Mercantile Law and practical business: and its rectification and elucidation will open up a completely new branch of inquiry of the greatest novelty and interest

When an Obligation has been created between two parties by the sale of Money or Goods "on Credit," the case of the Creditor is clear: in exchange for the Money or Goods he has received a Right of action—which is termed a **Credit** or a **Debt**—which is his Property: and which he can sell, or dispose of, in any way he pleases, for other Goods, or for Money

But a strong division of opinion exists among Jurists as to the position of the Debtor in the Obligation

When a merchant has bought goods "on Credit," and has given a Bill at three months for them—*Is he in* **Debt** *at the* **Present Time?**

Roman Jurists and English Jurists hold different doctrines on this point

When an Obligation was contracted the Roman Jurist said *dies cedit*: when it became payable they said *dies venit*

"Cedere[1] diem significat incipere deberi pecuniam: Venire diem significat cum diem venisse quo pecunia peti possit"

[1] *Digest*, 50, 16, 213

*"'Cedit dies' means the day on which money begins to be owed: 'venit dies' means the day on which it may be demanded"*

The Roman Jurists held that the money was due from the day on which the Obligation was contracted: but that the **Remedy** was suspended until the day of payment came

"Id[1] quod in diem stipulamur, statim quidem debetur: sed peti priusquam dies venerit non potest"

*"That which we agree to pay on a future day is indeed due at once: but it cannot be sued for until the day of payment has come"*

Paulus says[2]—"Præsens obligatio est, in diem autem dilata solutio"

*"The obligation is present, but the payment is deferred until the fixed day"*

Ulpian says[3]—"Ubi in diem (quis stipulatus fuerit) cessit dies, sed nondum venit"

*"Whenever any one has agreed to pay a sum on a fixed day, the obligation has begun to run, but the day of payment has not come"*

So it was a maxim of Roman Law—"Debitum in presenti solvendum in futuro"

*"The money is due at present, but it is only to be paid in future"*

This doctrine throws considerable confusion into the nature of an Obligation: and it was probably due to the fact that the Jurists had not yet completely emancipated themselves from the idea that *debitum* meant the money actually due: and was only then beginning to acquire the meaning of the abstract Incorporeal Contract, which it means now

But English Jurists hold quite different doctrine. As in English Law and common usage the word **Debt** (passive) means simply the abstract Personal Duty to pay, English Jurists hold that no Debt is created until the Duty to pay comes into existence: *i.e.*, until the day of payment has come

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[1] *Instit: Just:* III., 15, 2.

[2] *Digest*, 45, 1, 46

[3] *Digest*, 50, 17, 213

It is a maxim of English Law that Credit unexpired may be pleaded under the General Issue : which means that if an action is brought against a person who has contracted an Obligation payable at a future time, before the day of payment has come, he may reply that he is not in Debt at all

Thus Pitt Taylor says[1]—"In addition to these examples, it may be observed that whenever the defendant can show that in fact *no Debt ever existed* before action brought, he may do so under the plea of *never indebted*

"Thus, for instance, if the action be for goods sold and delivered, he may defend himself under the plea by proving that they were sold on **Credit** which was **unexpired** when the action was commenced"

To understand the following discussions, the reader will find it very useful to fix these principles in his mind—

1. When a person is only bound to pay a sum of money on a future day : *he is* **not** *in* **Debt** *at the present time*

2. That if a person has contracted to pay a sum of money at a future day : his Creditor has no Right to any of his property, he has no *Jus in rem :* it is only a claim against his Person, or a *Jus in personam*

A few examples will illustrate these principles

1. Suppose that a tenant takes a house or an apartment, and agrees to pay the rent quarterly. Suppose that the day after he had entered into possession the landlord came and demanded his rent. What would the tenant say? He would say—"My good friend, Mr. Landlord, I owe you nothing. The bargain is that I am to have the use and enjoyment of this house for three months before the rent becomes due and payable. My Debt, or Duty to pay, does not come into existence till then: good morning to you."

2. So when a farmer takes a farm on a lease of 19 years, and agrees to pay the rent half-yearly : the agreement is that he is to have the use and enjoyment of the farm for intervals of six months, before each instalment of rent becomes due. The successive rents are intended and expected to be paid out of the

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[1] *Law of Evidence*, Vol. 1

successive profits made out of the farm. And it is obviously absurd to say that the farmer is indebted at the present time for rent which only becomes due 19 years hence: and is intended and expected to be paid out of profits which will only come into existence 19 years hence

3. The same is obviously true in the case of a merchant who has bought goods, and given in exchange for them his promise to pay money for them three months hence. He is not in Debt at the *present* time. The agreement is that he is to have the property in the goods for three months, and to dispose of them in any way he pleases so as to make a profit out of them: and it is expected on both sides that he is to pay his bill out of the profits realised by the goods. No Debt, or Duty to pay, comes into existence until the Bill becomes due and payable: and the amount of the Bill is not to be *subtracted* from his present property

4. It is commonly said that this country is "in Debt" about £750,000,000. The answer is that this country is not "in Debt" one penny. For a person to be "in Debt" means that he is liable to pay a sum of money on demand. Does any one suppose that the Creditors of the country can call upon her to pay £750,000,000 on demand. What the country has undertaken to do is to pay an annuity of about £7,000,000 quarterly. And as soon as one quarter's annuity is paid she is not in debt until next quarter-day comes round. It would be just as absurd to say that the farmer is in Debt at the present time for nineteen years' rent. The sum of £750,000,000 is merely the Sum of the Present Values of the annuity

5. This principle strongly applies to a case of Conscience. Suppose that a kind-hearted instructor engages to prepare a student for one of the Public Services—say the Indian Civil Service—and on his success agrees to take an Obligation payable five years after date. On entering the service the Candidate is asked if he is in Debt. He most properly and conscientiously replies that he is "not in Debt": because he has no sum of money which is payable by him on demand. He is only bound to pay at the end of five years: and it is quite understood on both sides that his Obligation to his instructor is to be redeemed out of his annual salary

This case is an example of *Novation*, which will be more fully described in a future section. When the Candidate has won his appointment in the Indian Civil Service, he is no doubt in Debt to his instructors. But if the instructor agrees to take an Obligation payable five years after date, that Obligation pays, extinguishes and discharges the Debt payable as demand: and no new Debt arises until the Obligation becomes due. The Release of the Debt payable on demand is the Consideration for the Obligation payable five years after date

The importance of the consideration consists in this. It is commonly supposed that when a person has to make a payment at a future time: the sum due is to be *subtracted* from his *present* property: and is a diminution of it. It is usual to denote Debts by the Negative Sign —: and according to this view if a person possessed £100, and was bound to pay £30 three months hence: and therefore his property would be represented by £100 — £30: it would mean that his property was only £70. On a larger scale it would mean that all the Obligations in the nation were to be *subtracted* from all the property in the nation. But this view is entirely erroneous. In this case the sign — does not mean subtraction. What it does really mean will be shewn further on.

The Debtor has the full property in his £100: to do with exactly as he pleases. His duty to pay has no present existence: it is no *subtraction* from his *present* property. The expression is not to be read as if his property were only £70. The Debt is is a mere abstract Personal Duty: and a Personal Duty cannot be *subtracted* from a material sum of hard money. The expression is to be read in this way. He possessed £100 in money; but coupled with the Duty to pay £30 at some future given time. Hence the sign — does not mean *subtraction* in this case: it is a mere *Memorandum* that he has to make an exchange, by buying up a Right of action, at some future time

### **Advantage** *of Adopting the* **Conception** *of* **Economics** *as the Science of* **Commerce** *or* **Exchanges**

**10.** We now see the advantage of adopting and firmly grasping the conception of Economics as the Science of Commerce, or Exchanges. Because all the mechanism and phenomena of the great System of Credit, which are a hopeless puzzle and an inscrutable perplexity so long as Economics is treated as the "Production, Distribution and Consumption of Wealth" become perfectly clear and simple when it is understood to be the Science of Commerce, or Exchanges

Every case of a "Loan" of Money or a Sale of goods "on Credit" is an exchange: or an act of commerce. In exchange for the Money or the Goods a Right of action is created: and is the Price of the goods. This Right of action is a Saleable Commodity: which may be bought and sold like any material chattel: and it has Value because it will be paid in money. This Right of action may circulate in commerce exactly like a piece of money, and effect exchanges exactly like a piece of money, until it is paid off and extinguished: and then it ceases to exist

The Debt was created by one exchange: it then may effect any number of exchanges: and when it is due, the holder of it brings it to the Debtor who gives the Money in exchange for the Right of action. Thus the Debt is created by one exchange, and is annihilated, or extinguished, by another exchange: and thus the whole system and operations on Credit are merely a series of Exchanges

## *On the* **Errors** *made by some Mathematicians in terming* **Debts Negative Quantities**

11. The Juridical Theory of Credit worked out by the Roman jurists is sufficient for all practical purposes. They explained how Credits, Rights of action, or Debts are Created: how they may be Transferred: and how they are Extinguished. But this is not sufficient for the full scientific Theory of the subject: because they treated these Credits almost entirely from the Creditor's side

But in every Obligation there are two parties: the Creditor and the Debtor

Now when two persons are bound together by an Obligation, such as that of Debt, it is usual to term the Creditor the **Active, or Positive, Agent**: and the Debtor the **Passive, or Negative Agent**

Hence, to complete the full scientific Theory of Credit it is necessary to develop it from the **Debtor's, or Negative,** side, as well as from the **Creditor's,** or **Positive,** side

Accordingly for the last 150 years, from the days of Maclaurin at least, Mathematicians have been in the habit of giving Debts as an example of **Negative Quantities.** But they have entirely failed in giving an explanation of the term Negative as applied to Debts, which can be received as suitable for Economic Science

The explanation usually given is this—a man's property may be considered as Positive: and his Debts as Negative: subtract his Debts from his property: and the remainder, if any, is his substance, or Capital

And as the national Capital is the aggregate Capital of all the individuals in it: according to this doctrine, in order to find the quantity of Capital in the country all the floating Debts in it would have to be subtracted from all the Money in it: and the remainder would be the national Capital (in money).

Now, as we shall show hereafter, it may be conjectured that the floating Debts in the country are not less than £6,000,000,000: and no one estimates the specie in the country at more than £120,000,000: it would be rather a difficult matter to perceive how £6,000,000,000 of floating Debts are to be subtracted from £120,000,000 of hard money

So Peacock and Tait, two very distinguished mathematicians, say—"If property possessed or due could be denoted by a number or symbol with a Positive Sign: a Debt would be indicated by a number or symbol with a Negative Sign: or conversely. Such affections of **Property** are correctly symbolised by the signs + and – : since they possess the inverse relations to each other which these signs require. For if to a person A there be given a certain property or sum of money with, or added to, a Debt of equal amount: his Wealth, or Property, remains the same as before"

Now, in a certain sense, these modes of statement have some semblance of truth: if a person were going to retire from business he would call in and discharge his Debts, or liabilities, and the remainder, if any, would be his substance. But then this result could not be attained without an exchange: because his outstanding Debts could not be extinguished without being brought to him to be exchanged for money

But such a mode of statement is quite unsuitable for Economics. Economics is purely the science of Exchanges: and has only to do with Quantities while they exist: and all Exchangeable Quantities are Economic Quantities while they exist and are the subject of commerce. Debts, or Credits, are a species of property of the most gigantic magnitude: and are the subject of the most colossal Commerce of modern times. They exceed in magnitude every other species of property, except the land itself. And what are they to be substracted from? The mode of statement by Peacock and Tait is entirely inapplicable to the business of banking, as will be shown in a future chapter

The fact is that mathematicians have completely mistaken the application of the signs + and — in Economics, from a want of knowledge of Mercantile Law and practical business

Mathematicians are accustomed to treat of Quantities and Operations: and as these may each be of opposite or inverse natures they apply the signs + and — to them

The error which mathematicians fall into in applying the signs + and — in Economics is that they apply them to **Property**: whereas they affect **Persons**

As will be shown hereafter, Persons may stand in Inverse, or Opposite, relations to each other as well as Quantities and Operations: and Persons who stand in these Inverse, or Opposite, relations may be indicated by the signs + and —, as well as Quantities and Operations

Every student of Mercantile Law will at once perceive Peacock's error in the above extract, which is shared by other mathematicians: because Credits, or Debts, are not **Jura in re**: they are **Jura in personam**: and the Passive, or Negative, Debt is not **Money** owed by the Debtor, but the abstract **Personal Duty** to **pay** money

**Two Algebraists of the highest eminence, Euler and Peacock, have attempted to explain the meaning of the Negative Sign as applied to Debts: but they have both failed from a want of knowledge of the principles of Mercantile Law**

### *Error of* **Euler** *in terming* **Debts Negative Quantities**

**12.** Euler says[1]—"The manner in which we calculate a person's Property is an apt illustration of what has just been said. We denote what a man really possesses by Positive numbers, using or understanding the sign + : whereas his Debts are represented by Negative numbers, or by using the sign —. Thus it is said of any one that he has 100 crowns, but owes 50 : this means that his real possessions amount to 100—50 : that is to say 50 crowns.

"As Negative numbers may be considered as Debts: because Positive numbers represent real possessions: we may say that Negative numbers are less than nothing. Thus, when a man has nothing in the world, and owes 50 crowns, it is certain that he has 50 crowns less than nothing: for if any one were to make him a present of 50 crowns to pay his Debts: he would still be at the point 0 : though really richer than before"

It will be seen that the statement in the first part commits exactly the error we have just pointed out

Suppose that the person has 100 crowns : and is bound to pay 50 crowns at the end of the year. Then his Property would, according to Euler, be stated as 100 crowns – 50 crowns. But it would be quite inaccurate to say that his Property was only 50 crowns. Because he has the 100 crowns which are his absolute Property, to dispose of, or trade with, exactly as he pleases in the meantime : and he is only bound to have 50 crowns at the end of the year to discharge his Debt

Moreover, as we have shown, the Debt is the abstract Personal Duty to pay : and it does not come into existence until the time for payment has come. Consequently, the person is not in Debt at all until the end of the year : and, therefore, the Debt, which does not exist, cannot be subtracted from his Property

But the owner of the Debt may put it into circulation : and it may be sold, transferred, or exchanged, and produce all the effects of money, any number of times, until it is paid off and extinguished. So that there may be the 100 crowns, and the Right to demand the 50 crowns, circulating simultaneously in commerce

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[1] *Algebra*, p. 7

Moreover, as the 100 crowns are solid money : and the Debt of 50 crowns is only the Personal Duty to pay money : it is quite evident that an abstract Personal Duty cannot be subtracted from a solid sum of hard cash

Furthermore, by the *Law of Continuity*, if we diminish the period of payment gradually and continuously to 0 : and the Debt becomes payable on demand : that in no way alters the general principles of the subject. A Duty to pay, though due on demand, cannot be subtracted from a material sum of money. The Debtor's money remains absolutely intact until he voluntarily buys up the Right of action against himself of his own free will, giving 50 crowns in exchange for it

The expression is to be read in this way : he possesses 100 crowns : but coupled with the Duty to pay 50 crowns at some given time

In the second paragraph, when the Debtor possesses 0 crowns, and owes 50 crowns, he is said to have 50 crowns less than nothing. This clearly means that he is under the **Duty to pay** 50 crowns : and has 0 crowns to pay them with

Now, suppose that being in such a position, as Euler says, some one makes him a present of 50 crowns to pay his Debt with. He pays the Debt : he is 50 crowns richer than he was before : but his Property is now 0. This is an example that $+ \times + = +$

Thus Euler is right as far as he goes : but he has stated only one half of the case. Because there is another combination of Algebraical signs which gives $+$ : namely $- \times -$ : and there is another method in commerce of arriving at the same practical result

As any person whatever may give the Debtor 50 crowns to pay his Debt with : let us suppose that the Creditor does so. Then having received the 50 crowns in a present from his Creditor, the Debtor hands them back to his Creditor in payment of the Debt : which is then extinguished. The Debtor is now, as in the former case, richer by 50 crowns than he was before : and his property is now 0

The same result may be attained in another way. Suppose that the Creditor simply **Releases** his Debtor from his Debt: then as in the former case he would be 50 crowns richer than he was before: and his Property would now be 0

Now if Crowns be +, and to give is also +: then a Debt is —, and to Cancel, or take away, is also —. Consequently to give Money is + × +: and to Release, or Cancel, a Debt is — × —: and the position of the Debtor will be exactly the same after each operation

This shows that the **Release** of a **Debt** is, in all circumstances, equivalent to a **Payment** in **Money**

Thus it is seen that in Commercial, as in all Algebra, + × + = — × —: an example of the *Permanence of Equivalent Forms*: and a principle of the most momentous importance in modern commerce

### *Error of* Peacock *in terming* Debts Negative Quantities

**13.** Peacock, Dean of Ely, who published the most philosophical treatise on Algebra in his day, and who was the first to introduce the Modern Theory of Signs into a standard treatise for popular use, endeavoured to apply the Theory of Signs to the Theory of Credit. But he has fallen into the errors so carefully provided for in the Digest, and by all jurists since

He says[1]—"A merchant possesses $a$ pounds, and owes $b$ pounds: his substance is, therefore, $a - b$: when $a$ is greater than $b$

"But since $a$ and $b$ may possess every relation of value, we may replace $b$ by $a - c$, or $a + c$: according as $a$ is greater or less than $b$: in the first case we get—

$$a - b = a - (a - c) = c$$

and in the second—

$$a - b = a - (a - b) = - c$$

If, therefore, $c$ expresses his substance or property when solvent: $- c$ will express the amount of his Debts when insolvent: and if from the use of + and —, as signs of affection or quality in this case we pass to their use as signs of operation, then inasmuch as—

$$a + (- c) = a - c: \text{ and } a - (- c) = a + c$$

it follows that the addition of a Debt $(- c)$ is equivalent to the subtraction of property, *c*, of an equivalent amount: and the subtraction of a Debt (— *c*) is equivalent to the *addition* of Property, *c*, of an equal amount: and consequently it appears that the subtraction of a Debt, in the language of symbolical Algebra, is not its **Obliteration** or **Removal**: but the change of its affection, or character, from Money, or Property, **Owed** to Money, or Property, **Possessed**"

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[1] *Algebra, Second Edition, Vol. II.*, p. 15

Peacock, as is seen, arrives at the conclusion that the subtraction of a Debt is equivalent to the addition of Property. The conclusion is right as we have seen above: but his method of arriving at it, is entirely erroneous: as has been repeatedly pointed out by Jurists. The Negative Sign — is not a sign affecting the **Money**, or the **Property**, of the Debtor: but it is a sign affecting his **Person**

If such a distinguished mathematician as Peacock was, had only reflected, he could not have failed to perceive that his interpretation of the Negative Sign, as applied to Debts could not be correct. Because the signs + and — always refer to *Similar* Quantities, but of opposite Qualities. Now the sign + represents the Creditor's Personal Right to demand a sum of Money: and a material sum of Money can, by no possibility, be the Inverse of an Abstract Personal Right. It must be something which is the Inverse of a Right: and the Inverse of a **Right** is a **Duty**

The modes of statement adopted by Euler and Peacock are open to the following objections—

1. They violate the fundamental principles of the Philosophy of Science

Because Economics being the Science of Commerce, or Exchanges: all questions and problems in Economics must be stated in the form of an Exchange. Economics has nothing to do with addition and subtraction

2. They violate the principles of Jurisprudence

Because a Creditor has no Right, or Title, to any of the **Property** of his Debtor: he has only a Right, or Claim, against his **Person**

Peacock's mode of statement confounds the distinction between a Trustee and a Debtor. A person who merely holds a sum of money to which another person has a Right, is a **Trustee,** or **Bailee,** and not a **Debtor.** The property of a Debtor belongs absolutely to himself : and he only parts with it by his own voluntary consent

There is no such thing in Law as Money, or Property, owed. There is only the Abstract Personal Duty to pay or do something.

3. They violate the elementary principles of Mathematics

Because an abstract Personal Duty cannot be subtracted from a sum of hard cash

A sum of solid Money cannot be the Inverse, or Negative, of an abstract Personal Right

In Economics the signs + and — do not affect **Property:** but only **Persons**

In Economics the signs + and —, as signs of Operation, in no case whatever signify addition and subtraction, because addition and subtraction are no part of Economics. What they do mean will be shown a little further on

The result which Peacock has arrived at is correct : but his course of reasoning is entirely erroneous: the result is not produced in the way in which he says it is : but just exactly in the way in which he says it is not : we shall presently show how the result is arrived at by a totally different course of reasoning.

### *Further Error of Peacock*

**14.** We have shown that Peacock is in error in his attempt to apply the sign — to Debts : but he is also mistaken in his attempt to apply the symbol $\sqrt{-1}$ to Property

He says[1]—" If $a$ denoted property possessed, and $-a$ a Debt, $a\sqrt{-1}$ might denote property neither possessed nor owed, such as a mere deposit might be "

He has explained his views at greater length further on[2]

" There are many cases, however, of quantities which cannot be represented unless symbolically by lines, which are susceptible of affections denoted by + and —, which are appropriate to their specific nature : thus if $a$ represented property possessed (?)

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[1] *Algebra*, 1st Edit., p. 177.

[2] *Ibid*, p. 366, Art. 447.

$-a$ may represent the same property owed (?): under such circumstances what is the meaning which may be attached to $a\sqrt{-1}$, and $-a\sqrt{-1}$?

If we consider the succession of Quantities—

$$a,\ a\sqrt{-1},\ a\left(\sqrt{-1}\right)^2,\ a\left(\sqrt{-1}\right)^3$$

$$\text{or,}\quad a,\ a\sqrt{-1},\ -a,\ -a\sqrt{-1}$$

and if the first represents property possessed, and the third property owed, the second can neither represent property possessed nor owed, under the same circumstances, or by the same person: inasmuch as in such a case, it would be symbolically represented by $a$, or $-a$: it may represent, however, property deposited: which admits of similar relations when considered as property possessed and property owed by another person: under such circumstances, the *affectation* of $a$ denoting property possessed by A by the sign $\sqrt{-1}$, would convert it into property possessed by B: and the *affectation* of $a\sqrt{-1}$, by $\sqrt{-1}$ would convert property owed by A into property possessed by B: and fourthly, the *affectation* of $-a\sqrt{-1}$ by $\sqrt{-1}$ would convert property owed by B into property possessed by A. The repetition of the process of *affectation* by the sign $\sqrt{-1}$ would reproduce continually the same succession of transfers of property from A to B: and of conversions of property possessed into Debt: and of Debt into property possessed: which is required to correspond to the succession of the same symbolical results

"In this case the interpretation of the sign $\sqrt{-1}$ which we have given, satisfies the symbolical conditions, and also coincides with the interpretation of the signs + and —, which is otherwise established: we cannot give it the additional authority of the coincidence of this interpretation with the interpretation of the meanings of the quantities corresponding to $a^2$ and $-a^2$, for these quantities in the case under consideration admit of no interpretation"

It is really impossible to extract any intelligible meaning from this application of the sign $\sqrt{-1}$ to property

The fallacy underlying the whole passage is the one which we have pointed out as so common among lay writers, both literary and mathematical—namely that a Debt is property owed:

which arises from the meaning of *Debitum* in classical Latin. A Credit is the abstract Personal Right residing in the Creditor, and the Debt (passive) is the abstract Personal Duty to pay residing in the Debtor : and these opposite personal affections are correctly represented by the signs + and — : but they have no relation to any specific money, or other thing

Now the symbol $\sqrt{-1}$ denotes that operation which being twice repeated changes + into —. If we move a line through 90°, it is perpendicular to its former position : and is denoted by the sign $\sqrt{-1}$ : and if we move it through 90° more, it then forms a straight line with its former position : and is that denoted by the sign —

But depositing a thing twice with a person does not change property into a Debt : nor does it transfer the property. If the sign $\sqrt{-1}$ had any application at all, it would mean that operation which being twice repeated changes a *Right to demand* into a *Duty to pay*. But what possible operation could have that effect ? Absolutely none whatever. Consequently it is evident that the sign $\sqrt{-1}$ can have no application to Economics

The sign $\sqrt{-1}$ denotes *Perpendicularity :* and what possible application can the idea of Perpendicularity have to Economics ?

Economics is a science of *one* dimension : it acts entirely in single lines : in direct exchanges between persons. Now the sign $\sqrt{-1}$ is not applicable to any science of *one* dimension : to have any meaning it requires a science of at least *two* dimensions, such as an area

De Morgan has expressed exactly similar sentiments in his article *Algebra* in the English Cyclopædia—" It is impossible that a perfect Algebra can be founded on ideas of time, loss and gain, or any in which only two directions can be imagined [such as that of Exchanges]. Space from the infinity of directions which it admits, is as yet the only perfect medium of explanation. Time before and time after a certain epoch may be represented by the Positive and Negative quantity : but what is there in the idea of time to which the sign $\sqrt{-1}$ [Perpendicularity] can possibly apply ? Again, show us a commercial operation which performed upon a gain produces a sort of a result which can neither be called a gain or loss: but which repeated two or three times upon a gain turns it into a loss—and we can immediately see a system of Commercial Algebra, in which $\sqrt{-1}$ shall be intelligible"

But no such operation can be imagined: and consequently the sign $\sqrt{-1}$ is not applicable to Economics

### *Error of* Thornton *and* Cernuschi *on* Credit

**15.** We have shown the error of two very distinguished Algebraists in their interpretation of the Negative Sign as applied to Debts: we have now to point out the error of a plausible view held by two distinguished bankers

It has been asserted that Credit adds nothing to the resources of the world, because it is neutralised by something else

Any person practically conversant with commerce, and seeing that the enormously greater portion of commercial operations are carried on by Credit, would think it a strange doctrine that Credit adds nothing to the resources of a nation, or of an individual. It is now universally agreed that the only true definition of Wealth is "Anything which has Purchasing Power." The Wealth of an individual or a nation is their "Purchasing Power." And their Purchasing Power is their Money, *together with their* **Credit**: Credit is, therefore, Purchasing Power over and above, and additional to Money: and hence it must be a resource cumulative to Money

Some writers, however, have maintained the contrary doctrine in a very plausible way: which we have now to examine

Henry Thornton, an able man, a distinguished banker, and one of the authors of the Bullion Report, says[1]—"Paper constitutes, it is true, an article on the Credit side of the books of some men, but it forms an exactly equal item on the Debit side of the books of others. It constitutes on the whole neither a Debit nor a Credit. . . . The use of Paper does not, therefore, introduce any principle of delusion into that estimate of property which is made by individuals"

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[1] *An Enquiry into the Nature and Effects of the Paper Credit of Great Britain*, p. 20

So another eminent banker, M. Cernuschi, says[1]—"The balance-sheet of every individual contains three accounts, existing goods, Credits, and Debts. But if we collected into one all the balance-sheets of every one in the world, the Debts and Credits mutually neutralise each other: and there remains but a single account: existing goods

"The totality of goods, therefore, forms the general inventory. There is the first matter of exchange. The Debts and Credits are subsidiary matters. Debts and Credits are reciprocally transmitted as goods are transmitted: but however great, or however small, they may be: and through whatever hands they may pass: Credits for some: Debts for others: they add nothing to, and take nothing away from the general inventory"

The argument of Thornton and Cernuschi is simply this. Suppose A to have £100 in Money, and also a three months' bill of £50 on B. Suppose B to have £100 in Money: and at the same time to have accepted a Bill for £50 at three months' to A. Then A's property would be stated thus: £100 + £50: B's property would be stated thus: £100 — £50

Now the argument of these writers is this—the + £50 and the — £50 balance and neutralise each other: and the result is 0: which, according to them, is the same thing as saying that these Quantities do not exist at all

This view might, perhaps, at first sight seem somewhat specious: but a very little reflection will show that it is quite erroneous

It alleges that if there are two equal and opposite quantities in existence at any moment, which may neutralise each other's effects: and the result is 0: that that is the same thing as saying that these two quantities do not exist at all

Suppose that two equal and opposite forces act upon a particle at rest: they neutralise each other's effects: and the result is 0: but it would be highly erroneous to say that for that reason, they do not exist at all

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[1] *Mecanique de l'Echange*, p. 1

Suppose that on a division the Government has 345 supporters and 300 opponents: the 300 members on each side neutralise each others' effects: and the result is that the practical force of the Government is 45: but that does not imply that the 600 members do not exist at all

Hence, even if it were true that these equal and opposite quantities, Credits and Debts, neutralised each other's effects: it would be quite erroneous to say that that is the same thing as saying that they do not exist at all

The error consists, as we have pointed out, in supposing that, in the case of Obligations not yet due, the Debt is an existing negative quantity neutralising the effect of the Credit

The Credit, or the Right of action of the Creditor is an existent Quantity, which may be bought and sold like Money, or any other chattel: the Debt, or Duty to pay, does not come into existence until the Credit has expired, and the day of payment has come: and consequently it cannot neutralise the Credit

And even supposing that it is payable on Demand like a Bank Credit: it is still an Economic Quantity until payment is demanded and it is extinguished: and the Debtor's property remains entire until he voluntarily gives some of it up to buy up the Right of action against himself. These considerations are of supreme importance, as we shall see, in understanding the nature of Banking

Personal Credit is a person's Purchasing Power *over and above* his Money: hence Credit is a Resource and Wealth cumulative to Money: and the whole mass of Circulating Credits are Economical Quantities over and above and additional to Money: and they are in their nature and effects in every respect equivalent to an equal quantity of Money

### *On the* **Application** *of the* **Theory** *of* **Algebraical Signs** *to* **Economics**

**16.** The perplexities of the Theory of Credit, which have baffled all the Economists in the world to explain, can only be unravelled by the great modern doctrine of the separation of the signs of Affection, or Distinction, and Operation

As the introduction of this great doctrine into Economics is perfectly novel, we shall have to treat of it rather fully: especially as there may be students of Economics who are not very familiar with it in other sciences. And we shall endeavour to make it intelligible to those who have not become acquainted with it.

It is a striking example of the universal truth that Practice has always preceded Theory, that even the Practice of Science long preceded the Theory of Science

> Sixteen hundred years ago Diophantus said—
> "λεῖψις ἐπὶ λεῖψιν πολλαπλασιασθεῖσα ποιεῖ ὕπαρξιν"
> "*Defect multiplied into defect gives existence*"
>
> And it is said in the Basilica—
> "δύο ἀρνήσεις μίαν ποιοῦσιν κατάθεσιν"
> "*Two Negatives make an Affirmative*"

This is simply the Algebraical doctrine that $- \times - = +$: and from the days of Diophantus this has been perfectly well understood as an empirical rule in Algebra

When the great pioneers of Algebra in modern times—Harriot, Fermat, Vieta, Des Cartes, Cardan, Tartaglia, and others, translated their reasonings into general symbols, they found that they had created a machine whose working they were not fully able to apprehend

They found among other things that many problems produced **Negative** answers. Unable at first to apprehend the meaning of Negative answers, they believed that they had no real interpretation: and they called Positive roots true (*veræ radices*), and Negative roots false (*fictæ radices*)

In the progress of Natural Philosophy the Negative sign was used to a vast variety of quantities: but no general Theory of signs was devised: and the progress of mathematics was much impeded by the want of this generalisation

The rule that $- \times - = +$ was universally adopted in practice, as a mere matter of empiricism, because it alone produced right results. But Algebraists were wholly unable to explain it: it was wholly unknown to Newton: and when he tried to explain it the great Euler babbled like a child

Even so late as 1813, Frend, a distinguished mathematician at Cambridge denied the existence of, and ridiculed the idea of there being, any such things as "Negative" Quantities

Many centuries ago, at least about 1100 A.D., the Hindoo Algebraists had made considerable progress in explaining the Theory of Signs: but nothing was done in Europe till near the end of the last century. Since then a new spirit of philosophy has been breathed into the old science: and a number of eminent Algebraists—Arbogast, Argand, Buée, Armand, Carnot, Warren, De Morgan, Peacock and others, have completely established the Theory of Signs: and their labors have resulted in what is called the Separation of the Signs of Affection, or Distinction, and Operation. This great Theory was first published in a standard treatise for popular use by Peacock, in his Algebra about 1834, from which we learnt the science

In most of the common books on Algebra the student is told that the sign + means addition: and the sign − means subtraction.

He is then told that + × + gives +: and — × — also gives +: a doctrine which without further explanation is an inscrutable mystery, not to say an absurdity: as appears in Frend's sarcastic comments on it

Writers who are not versed in Natural Philosophy have no conception of the signs + and — meaning anything but addition and subtraction. It is perfectly true that in some cases these signs do have that meaning: but that is only one of their meanings. Every one who has any knowledge of Mathematics and Natural Philosophy knows perfectly well that in reality these signs have an immense variety of meanings: according to the particular circumstances out of which they arise: or the body of facts to which they relate: and that it is wholly impossible to determine their meaning until we know the particular circumstances under which they arise

We must now explain the general use of these signs in Mathematics and Natural Philosophy, and show how they are to be interpreted in the particular body of facts which constitute the science of Economics

### *All Sciences deal with* **Quantities** *and* **Operations**

**17.** In order to explain the matter in the simplest way possible, it may be said that all Sciences deal with **Quantities** and **Operations**

Now throughout all Nature there is **Inverseness, Opposition,** or **Contrariety**—Inverseness, Opposition, or Contrariety of **Quality**: and Inverseness, Opposition, or Contrariety of **Operation**

Thus, Similar Quantities may be endowed with Inverse, Opposite, or Contrary **Qualities**: and when they are so it is invariably the custom in Mathematics and Natural Philosophy to distinguish them by the signs + and —

These signs so used in Mathematics and Natural Philosophy denote the Inverse, Opposite, or Contrary **Qualities** of Quantities of a similar nature : no matter what the Inverseness, Opposition, or Contrariety may consist in : it may be of any sort, or description : they are then usually termed in Mathematical works **Signs** of **Affection** : or we may with equal propriety term them Signs of **Distinction**, or of **Quality**

But also Inverse, Opposite, or Contrary **Operations** may be performed on these Quantities so affected by Inverse, Opposite, or Contrary Qualities: and these Inverse, Opposite, or Contrary Operations are also denoted by the same signs + and —. And any Operations of an Inverse, Opposite, or Contrary nature are denoted by these signs: no matter what the Inverseness, Opposition, or Contrariety may consist in : it may be of any sort or description whatever. They are then termed **Signs** of **Operation.**

Now in every new body of facts which is brought under scientific control : and in every new Science whatever, Inverseness, Opposition, or Contrariety is sure to appear : Inverseness, Opposition, or Contrariety of **Quality** : and Inverseness, Opposition, or Contrariety of **Operation.** And consequently, the signs + and — receive new applications of meaning in every new Science which comes into existence. And it is quite impossible to determine the meaning of these Signs until we know the

**Nature** of the **Quantities** which they refer to : and the **Nature** of the **Operations** they denote

As each of the Physical Sciences has been brought under the control of Mathematics these signs have received new meanings, according to the Quantities and Operations they refer to. Consequently they have already received a vast variety of meanings : and they will continue to receive new meanings according as every new body of facts, and every new Science is brought under Mathematical control

We have now to determine what is their meaning and application in the body of facts which is denominated the Science of Economics, when it is brought under Mathematical control

It is the Combination of these Signs denoting Quantities affected by Inverse, Opposite, or Contrary **Qualities**, with the same Signs denoting Inverse, Opposite, or Contrary **Operations** performed upon them : that is, the Combination of the signs of Affection, or Distinction, with the Signs of Operation, which gives rise to the well-known Algebraical Rules—

+ × + gives +
+ × — ,, —
— × + ,, —
— × — ,, +

These Laws, from the necessary principles of Natural Philosophy, are true in all Sciences : and in all cases whatever. They are universally true in all departments of Mathematics and Natural Philosophy : and therefore they must necessarily be equally true in Economics when brought under the dominion of Mathematics

They are alone capable, by giving a due adaptation of their general meaning to the particular facts of Economics, of completely solving the Theory of Credit, which has hitherto been the opprobrium of the Science

There are in Economics, like as in every other Physical Science whatever, Quantities possessing Inverse, Opposite, or Contrary Qualities, or Properties : and, therefore, following the strictest analogy of Mathematics and Natural Philosophy, we shall distinguish them by Opposite Signs

And also Opposite Operations may be performed upon these Quantities affected by Opposite Qualities: bringing into play the well-known Algebraical Rules: which will lead to consequences which may surprise some readers: and enable us to erect Economics into a great Physical Science

### *Examples of the Algebraical Signs applied to* Quantities

**18.** We will now give some examples of the signs + and — applied to Quantities of a similar nature, but of Opposite Qualities: to furnish us with analogies to guide us to their application in Economics

If we take the meridian of Greenwich as 0: degrees of Longitude East and West of Greenwich are Opposite to each other: if then the ones are denoted by +, the others will be denoted by —

So, in Algebraical Geometry, in which it is necessary to fix the position of the lines: if any fixed point be taken as 0: lines drawn in opposite direction from it: either to the Right or to the Left: or Upward or Downward from it: are distinguished by the opposite signs + and —

So if a line revolving in one direction be denoted by +, then when it revolves in the opposite direction it is denoted by —

So if an angle above, or to the right of, a line be denoted by +: an angle below, or to the left of, the line will be denoted by —

If two mechanical forces act in opposite directions, they are distinguished by the opposite signs + and —

If 1 be multiplied by powers of $a$, the results are termed Positive powers of $a$: if 1 be divided by powers of $a$, the results are termed Negative powers of $a$

In modern Kinematics, an Accelerating force is one which causes a body to change its Rate of Velocity: if it *increases* the Rate of Velocity, it is termed a **Positive** Accelerating Force: if it *diminishes* the Rate of Velocity, it is termed a **Negative** Accelerating Force

In errors of observing phenomena, if the error is *greater* than the truth, it is termed **Positive**: if it is less than the truth, it is termed **Negative**

In mercantile papers it is usual to compare the weekly result of railway traffic with the results of the corresponding week in the preceding year: if the result of the present year exceeds last year the *difference* is denoted by +: if it falls short the *difference* is denoted by —

Mr. Ball says[1] that there is good reason to believe that the signs + and — which have exerted so potent an influence in mathematics originated in the German warehouses, where it was the custom to mark packages which exceeded a certain weight with a +, and packages which fell short of the proper weight with a —

A curious instance of this may be cited from steam navigation. Owing to the resistance of the water, the paddles or the screw of a steamer do not in general propel the vessel through the water so fast as they would do if there was no resistance. This *Loss* of speed is termed the *Slip*. But in the case of the screw, by giving the stern of the vessel a peculiar shape, the paradoxical result may be obtained that it may be made to go through the water *faster* than it would do if the screw were working in a solid. In this case the difference between the theoretical and the actual speed is a **Gain** instead of a **Loss**: and this Gain is called the **Negative** Slip

And the instances which might be cited from the various mathematical and physical sciences are innumerable

Now the idea of Opposition is applied to a continuous line: and to Motion in a continuous line. If any point be taken as 0: then the part of the line on one side of 0 may be denoted by +: and the part on the other side by —

Thus, in a thermometer, some fixed point, as the freezing point, is taken as 0: and degrees above that are termed degrees of **Heat**, and are denoted by +: degrees below 0 are termed degrees of Frost, and are denoted by —

Now suppose that the mercury rises from 10° of Frost to 15°

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[1] *A Short History of Mathematics*, p. 185

of Heat : to find the total rise of the mercury the degrees on both sides of 0 must be added together. That is, the Negative degrees must be added to the Positive degrees, and not subtracted from them

In Natural Philosophy **Time** is considered as **Motion** in a continuous line. If, therefore, any point in Time be fixed on, and denoted by 0, then time on Opposite sides of this point will be denoted by Opposite signs. If Time before this epoch be denoted by + : then Time after this epoch will be denoted by — : and the successive intervals of time, whether years, months, weeks, days, or hours, will be denoted thus—

. . . +6, +5, +4, +3, +2, + 1, 0, — 1, —2, — 3, —4, — 5, —, 6 . . .

In short, in the most general terms possible, take any Quantity, whatever it may be : and then take its **Inverse, Opposite,** or **Contrary** : and if the one of these be denoted by +, the other will be denoted by —

Thus Up and Down : Right and Left : Before and Behind : Before and After : Time Past and Time Future : Above and Below : Face to Face : Back to Back : Erect and Inverse : Concave and Convex : Sympathy and Antipathy : Virtues and Vices : Rewards and Punishments : Right and Wrong : **Rights** and **Duties**: **Active** and **Passive**: and innumerable other things : are all Inverse, Opposite, or Contrary to each other : and may all be distinguished by the opposite signs + and —

### *The Signs + and — may also be applied to* **Persons** *who stand in* **Opposite Relations** *to each other*

**19.** Mathematicians are only accustomed to deal with Quantities, mathematical and physical, which are endowed with Inverse, Opposite, or Contrary Qualities : and they universally apply the signs + and — to them

But **Persons** may also stand in Inverse, Opposite, or Contrary Relations to each other : and the signs + and — may be equally applied to Persons who stand in Inverse, Opposite, or Contrary Relations to each other: as to Quantities which are affected by Inverse, Opposite, or Contrary Qualities

Thus, **Creditor** and **Debtor** : Master and Servant : Supporters and Opponents : Tutor and Pupil : Examiner and Examinee : Flogger and Floggee : and in innumerable other cases : Persons stand in Inverse, Opposite, or Contrary Relations to each other

In all these cases the one party is termed the Active or Positive Agent : and the other party the Passive or Negative Agent

And in the *Nexus*, Contract, or Obligation between such Persons, Jurists term the Right of the Active, or Positive, Agent, the Active, or Positive, Right, or Duty : and the Duty of the Passive or Negative Agent, the Passive, or Negative, Right, or Duty

### *Example of the Application of the* **Positive** *and* **Negative** *Signs to Time*

**20.** We shall now give an example of the Application of the Signs + and — to **Time,** which is of supreme importance in elucidating the Theory of Credit

Suppose this question were asked—

*A Father's age is* 40, *and his Son's* 15 : *when* **Was** *the Father twice the age of his Son ?*

Let $x$ be the number of years *before* the present time when the father **was** twice the age of his son

$$\text{Then } 40 - x = 2\,(15 - x)$$

$$\text{Or} \qquad x = -10$$

What does this Negative answer mean ?

It means that the father never *was* twice the age of his son in Time *past*, which is taken as *Positive* in the question : it means that the epoch or the event of the father being twice the age of his son is to be found in Time *opposite* to the *past* : that is to say in Time *future*. The father *was* not twice the age of his son ten years *ago* : but he *will be* twice as old as his son ten years *hence* : as is very clear : because ten years *hence* the father *will be* 50 and the son 25

Hence, if any event which has happened in Time *past* is **Positive**: the same event, if it is to happen in Time *future* is **Negative**

Thus, if a Product, or Profit, which *has been* realised **in Time past** is distinguished as **Positive**: then a Product or Profit which *is to be* produced in Time **future** is **Negative**

Hence, if any Economic Quantity, or Capital, of any form produces Profits in a continuous series: the Profits which *have been* produced in Time *past* or Positive time, may be distinguished as **Positive**: and the Profits which *are to be* produced in Time *future* or Negative time, may be distinguished as **Negative**

And, consequently, the **Right** to the Profits already realised in time *past* may be distinguished by the sign +, and termed **Positive**: and the **Right** to the Profits which *are to be* produced in Time *future* may be distinguished by the sign —, and termed **Negative**

And the total Value of the Economic Quantity, or the Capital, comprehends both the **Right** to the profits already realised in the past: and also the **Right** to the profits to be produced in the future: or both the **Positive Right** and the **Negative Right**

These doctrines apply to all Economic Quantities, or Capital, producing a continuous series of profits: *i.e.*, all Economic Quantities of the form of an Annuity: such as the Land: Personal Credit: Shares in Commercial Companies: the Funds: Copyrights: Patents: the Goodwill of a business: tolls: ferries: &c.

### *Examples of the* **Algebraical Signs** *applied to* **Operations**

**21.** The same signs + and — are also applied to any Operations whatever of an Inverse, Opposite, or Contrary nature: no matter what the Inverseness, Opposition, or Contrariety may consist in

Thus, to Add and to Substract: to Pay and to Receive: to Do and to Undo: to Build up and to Pull down: to Admit and to Deny: to Grant and to Refuse: to Expand and to Contract: and innumerable other verbs denoting Opposite, or Contrary, Operations, which every reader can supply for himself: are all distinguished by the opposite signs + and —

And as in the most general way possible, any Operations whatever which can be conceived of an Inverse, Opposite, or Contrary, nature, are distinguished by the signs + and —: to **Create**, or to call into existence out of the **Absolute Nothing**: and to Cancel, Annihilate, or **Decreate** into the Absolute Nothing: are Operations of an Inverse, Opposite, or Contrary, nature

Hence if to **Create**, or call into existence out of the Absolute Nothing, be denoted by the Positive sign +: to Cancel, Annihilate, or **Decreate** into the Absolute Nothing, will be denoted by the Negative sign —

Now in the purchase of Money, or Goods, on Credit, a *Nexus*, Contract, or Obligation is **Created** out of the Absolute Nothing: and on the Payment of the Debt, the Contract, or Obligation is Cancelled, Annihilated, or **Decreated** into the Absolute Nothing

Now we have shown above that a Contract or Obligation may be denoted by this symbol $\left\{\begin{matrix} + \pounds 100 \\ - \pounds 100 \end{matrix}\right\}$

Hence to **Create** an Obligation may be denoted by this symbol—

$$+\left\{\begin{matrix} + \pounds 100 \\ - \pounds 100 \end{matrix}\right\}$$

And to Cancel, Annihilate, or **Decreate**, an Obligation may be denoted by this symbol—

$$-\left\{\begin{matrix} + \pounds 100 \\ - \pounds 100 \end{matrix}\right\}$$

Now when an Obligation is Created, the Creditor's Right of action is **Created** out of the Absolute Nothing

But as has been shown, in every system of Jurisprudence in the world, a Right of action is *Pecunia*, *Res*, *Bonum*, *Merx*: *χρῆμα*, *πρᾶγμα*, *οὐσία*, *οἶκος*, &c.: Goods, Chattels, Merchandise; a Vendible Commodity: it may be bought and sold: its Value can be measured in money: because it will be paid at Maturity: and, therefore, it is **Wealth**

Hence it is manifest that Goods, Chattels, Merchandise, **Wealth** has been **Created** out of the Absolute Nothing

And when the Obligation is paid, satisfied, discharged, and extinguished, this Right of action ceases to exist: it is cancelled, Annihilated and **Decreated** into the Absolute Nothing from whence it came

Hence Goods, Chattels, Commodities, **Wealth** can be Created out of the Absolute Nothing and **Decreated** again into the Absolute Nothing from whence they came: to the utter confusion of all the materialistic philosophers from Kapila to the present day: and the first School of Economists

The superlative importance of these considerations will appear when we come to exhibit the mechanism and practical effects of the great system of Banking

### *Jurists also use the terms* **Positive** *and* **Negative** *to denote* **Opposition**

**22.** Jurists, also, as well as mathematicians, very commonly use the terms Positive and Negative to denote opposition

Thus Ortolan uses the term Positive Rights to denote Rights to Acts, and Negative Rights to denote Rights to forbearances

Jurists class Servitudes as Positive and Negative: or those which consist in the Right to use the given subject in a given way: and those which consist in the Duty of the owner of a given subject to be used in a given way

Ortolan calls the Omission or Refusal on the part of a person to act or do something a Negative fact

If a certain thing happens it is a Positive fact: if it does not happen it is a Negative fact

So Austin speaks of Positive and Negative wrongs: or wrongs of *Com*-mission and *O*-mission

In Parliamentary language a Bill which is thrown out is said to pass in the Negative

In its relation to a Right, a Duty is Negative: but Duties themselves are Positive and Negative: there is the Duty to *do* something, and the Duty to *abstain* from doing something. Thus we have, as it were, a Negative sign within a Negative sign: which we shall hereafter find to be the case in Economics

So Active and Passive are distinguished as Positive and Negative: Jurists term Rights Active or Positive Rights: and Duties Passive or Negative Rights

Thus, if the Right to demand £100 be denoted by (+ £100): the Duty to pay £100 will be denoted by (— £100): without any reference to any specific £100 in cash

But not only Mathematicians and Jurists, but also purely literary writers, constantly adopt the same usage

Thus, Bishop Stubbs says of Edward II.—"His faults are quite as much Negative as Positive : his character is not so much vicious as devoid of virtue"

When a man is said to be Negatively virtuous : it means that he possesses no active virtues, but is free from vices

And any reader of attention will observe that such usage is of constant occurrence

### *On the true Meaning of saying that* **Debts** *are* **Negative Quantities**

**23.** It has been shown that mathematicians apply the term "Negative" to Debts: but have erred in the interpretation of the sign —: because they apply it to the **Property** of the Debtor

But Jurists also term Debts "Negative" Quantities: but they interpret the sign — in quite a different way to what mathematicians do: for they apply it to the **Person** of the Debtor. And then the meaning of the term becomes perfectly clear

A Contract, or Obligation, consists of two parts—

1. The Creditor's **Right to Demand**
2. The Debtor's **Duty to pay**

The two Quantities are Inverse, Opposite, or Contrary to each other : the first is Active or **Positive** : and the second is Passive or **Negative**

Hence the Creditor's Personal Right of action is the Positive Quantity: and the Debtor's Personal Duty to pay is the Negative Quantity

Hence, if a person has £500 at his banker's: and is also bound to pay £50 at some given future time: or even on demand: and therefore his Property may be stated as £500 — £50: it is not to be read as if he had only £450 at his banker's: but it is to be read in this way—He possesses £500 in absolute property: but coupled with the Duty to pay £50 at a given time, or when demanded. And his property can only be reduced to £450 by giving up to him the Right of Action for £50

Hence in Economics, the symbol (+ £100) always denotes the Right to Money: or the Right to demand Money: such as Bank Notes, Cheques, Bills of Exchange, or other securities: and the symbol (— £100) always denotes the Personal Duty to pay Money

We now clearly see the meaning of saying that Money is a Positive Quantity, and Debt a Negative Quantity: because Money denotes a Right, and Debt denotes a Duty

And this exactly corresponds with the usual, but not universal, Algebraical doctrine that Quantities passing through 0 change their sign. Because when a person has spent all his money: and, therefore, his property is 0: and then incurs a Debt: he has exhausted all his Right to demand, and has incurred a Duty to pay

So when a man's property is said to be £100 less than nothing: it means that he is under the Duty to pay £100: and has no money to pay them with

It is now seen how necessary it is to observe the double meaning of the word Debt both in Law and common usage

When a Debt is termed "Goods," "Chattels," "Merchandise," "Wealth": it means the Creditor's **Right of action**

When a Debt is termed a "Negative" Quantity: it means the Debtor's **Duty to pay**

And as the Inverse, Opposite, or Contrary Quantities in an Obligation are created together: can only exist together: and vanish together: they are exactly analogous to Polar Forces

### *If* **Money** *be termed* **Positive Capital, Credit** *may be termed* **Negative Capital**

**24**. A merchant's Wealth, or Purchasing Power, consists of his Money, his Rights to demand Money, *i.e.*, the Bank Notes, Cheques, Bills of Exchange, or other Securities he may possess: and his Credit—*i.e.*, his Right to the future products of his industry

If he buys goods with his Money and sells them with a profit: he first replaces the sum he has expended: and the surplus is his Profit

If he buys goods with his Credit, he creates a Debt against himself: when he sells the goods, he first discharges the Debt he has incurred: and the surplus is his Profit

In either case, his Profit consists in the excess of his Property at the end of the operation, above what it was at the beginning

Now, as Senior says—"Economists are agreed that *whatever* gives a Profit is properly termed Capital"

If he buys with Money he makes Capital of the realised Profits of the **Past**: if he buys with **Credit**, he makes Capital of the *expected* Profits of the **Future**

In each case he makes a Profit: hence by the Definition, **Money** and **Credit** are equally **Capital**: but they are Inverse, or Opposite to each other: hence if **Money** be termed **Positive Capital, Credit** may be termed **Negative Capital**

By a somewhat curious coincidence of thought, the early Algebraists not apprehending the meaning of the Negative Roots of Equations, called them *fictitious* roots (*fictæ radices*), while they called the Positive Roots true roots (*veræ radices*)

Thus, in the problem we gave the father's and son's ages, the answer came out Negative: which merely meant that the question should have been stated in the Opposite, or Inverse, way to what it was done: it should have been asked when the father's age *would be* twice that of his son: instead of when it *had been*. And, therefore, as the Positive sign in that equation meant *past* time, the Negative sign meant *future* time. But this root, though Negative, is as real a root as the Positive one

The Root of an equation is any Quantity whatever which satisfies the terms of the equation : hence a Negative Quantity which satisfies the terms of an equation is as much a **Real** root as a Positive Quantity

' So in a similar way, many writers, seeing clearly the effects of Credit, call Money *Real* Capital, and Credit *Fictitious* Capital

But the truth is, that like as the Negative root of the equation is equally a Real root as the Positive one : Credit which is certain of being paid is of exactly the same Value as Gold itself : as Mill has expressly acknowledged

Money is the Property in gold already acquired: and Credit is the Property in Gold which is to be acquired. Therefore, Credit is Inverse, or Opposite, to Money : but Credit is in every way as Real a Value as gold: by using Money the trader makes Capital of the realised profits of the past: by using his Credit he makes capital of the expected profits of the future: but Money and Credit are equally saleable and valuable Commodities

The fact is, that when we adopt **Exchangeability** as the sole essence and principle of Wealth; the whole difficulty vanishes : for Money and Credit are equally Exchangeable Quantities

## Section III

### *On the* Transfer *of* Credits *or* Debts

**25.** Rights of action, Credits, or Debts are now clearly shown to be the **Name** of a certain species of Merchandise, Goods, Chattels, or Commodities: and they can be bought and sold exactly like any other Merchandise or Commodities

When it is seen that a Bank Note passes from hand to hand like Money, it might perhaps be supposed that any other Debts might be sold and transferred with equal facility. This, however, is a very great error. There is very considerable subtlety about the sale of Debts: and it was only by very slow and gradual degrees that Debts became freely saleable

If it were asked what discovery has most deeply affected the fortunes of the human race, it might probably be said with truth—The discovery that Debts are saleable Commodities

When Daniel Webster said that Credit had done more, a thousand times, to enrich nations, than all the mines of all the world: he meant the discovery that Debts are saleable Commodities, or Merchandise: that they may be used as Money: and that they produce all the effects of Money

We must now trace the origin and progress of the power of selling Debts: and place this branch of Mercantile Law on solid foundations

### *On* Property *held in* Contract: *or on* Jura in Personam

**26.** It has been shown in the first chapter that Property, or Rights, are of two species—

1. The Property or Right to a specific chattel: termed in Law a **Jus in rem, or in re**: without being related to any one else. This kind of Right is also called *Dominium*. When a person has such a sole and exclusive Right in any chattel, he may sell and transfer it to any one else at his own good will and pleasure: and without asking the consent of any one else

Money, corn, cattle, timber, jewels, &c., are subject to this kind of Property : and hence the proprietor of such chattels may freely alienate, sell, denote, or transfer them to any one else he pleases

2. Property, or Rights, held in Contract, or Obligation : called in Roman Law a **Jus in Personam**: or a **Jus ad rem** (*acquirendam*) : where a person has a Right not to any specific thing : but only against a **Person** to compel him to **Pay** or **Do** something

A simple example of this is the Contract, or Obligation, of Debt : where one person, the Creditor, has the Right to demand a sum of Money from another person, the Debtor : or has the Right to compel him to **Do** something. In such a case the Creditor has no right to any specific sum of money, or chattel, in the Debtor's possession. And the Creditor's right against the Debtor exists whether he has any Money to pay, or not : and equally the Debtor's Duty to pay exists whether he has any Money to pay, or not. In fact the Contract, or Obligation, is a purely abstract relation existing between the two parties : without any reference to any specific money, or other chattel

The former kind of Rights are called **Real Rights,** or **Corporeal Property**: because they are the Right to certain specific things, or chattels. The latter are called **Personal Rights** : because they are mere abstract Rights against a **Person** : and as the Person is always specified and definite, they are also called **Nominate** Rights : but as they are wholly severed from any specific chattels, they are one species of **Incorporeal Property**.

### **Property,** *or* **Rights,** *held in* **Contract** *or* **Obligation,** *are of* **Two** *kinds*

**27.** But Property, or Rights, held in Contract, or Obligation, are of two kinds

1. Where there is a Right to demand on one side, and the Duty to pay, or do, on the other : such as the relation between Creditor and Debtor : or landlord and tenant in modern times

Such a Relation is termed a **Unilateral Contract**

2. Where each party to the Contract has the Right to demand and also the Duty to perform something: such as the *Nexus*, or Obligation, between Landlord and Tenant in Feudal Law: or that between Master and Servant at the present time: or that of Marriage

Such a Relation between the two parties is termed a **Bilateral**, or **Synallagmatic, Contract**

Formerly it was held universally that when Property was held in Contract of either sort, Unilateral or Bilateral, neither party could substitute another person for himself without the consent of the other party to the contract. This rule must evidently hold good in all Bilateral Contracts. When one person agrees to accept another person to perform the Duty, he of course believes that that person can perform the Duty. But he cannot be compelled to accept another person to perform that Duty without his own consent: because he cannot be sure that that other person is able to perform the Duty. Neither if a person has agreed to perform a duty to another, can he be compelled to perform it to some one else, without his own consent

Thus, so long as the feudal law retained its pristine rigor, neither the Lord nor the Vassal could substitute any one else for himself, without the consent of the other party. Each of the parties had Duties to perform: the Vassal to render true and loyal service: and the Lord to render due protection and defence. And neither party could attorn[1] the other, or turn him over, to any one else without his own consent

As Sir Martin Wright says[2]—"As the feudatary could not aliene the feud without the consent of the Lord: so neither could the Lord aliene, or sell, or transfer, his seignory or superiority to another without the consent of the feudatary. For the obligations of the superior and inferior were mutual and reciprocal: the feudatary was really as much interested in the conduct and ability of the Lord, as the Lord was in the qualifications and ability of his feudatary. And as the Lord could not aliene, so neither could he exchange, mortgage, or otherwise dispose of his seignory without the consent of his vassal. Again, as the vassal, or feudatary, could not aliene, so neither could he devise, or dispose of the feud by will, or by any means (when the feuds were become hereditary), prevent or vary the feudal course of succession"

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[1] *Bracton*, 2, 35, 13. *Litt.*, 551, 567, 568

[2] *On Tenures*, p. 30

So in the case of Master and Servant at the present day. A Master cannot attorn, or transfer, his household to another master without their own consent, as if they were cattle or slaves. Neither can a servant substitute any one else for himself, without his master's consent

So if a person contracts to do any work for another, he cannot substitute another person for himself, without the consent of the other party to the contract

The same principle formerly held good when the Contract was Unilateral: as in the case of Creditor and Debtor. The Creditor could not transfer his Right of action against the Debtor to any one else, without his consent: because the Debtor never agreed to pay any one except his own Creditor. And the Creditor had no power to stipulate that the Debtor should pay any Transferee of the Debt

It is a rule of law, as well as of common sense, that no person can be made a party to a contract without his own consent: and no one can stipulate for another without his authority

Thus Ulpian says[1]—"Alteri stipulari nemo potest"

"*No one can stipulate for another*"

Unless, therefore, the Debtor had given authority to his Creditor to transfer his Right, the Creditor had no power to guarantee his Transferee that the Debtor should pay him

Accordingly, both in Roman and English Law, for a long period, the Creditor could not transfer his Right of action against his Debtor without his consent, so as to enable the Transferee to sue the Debtor in his own name

But both in Roman and English Law the Creditor might transfer his Right with the consent of the Debtor. If the Debtor consented, the Creditor, the Debtor, and the Transferee, might meet together: and the Creditor might transfer his Right to the Transferee: and the Debtor might agree to pay the Transferee.[1] In such a case the Transferee acquired a Right of action against the Debtor. The release of his duty to pay his own Creditor was the consideration for his promise to pay the Transferee. The Debtor was released from his debt to his own Creditor: and the Creditor was released from his Debt to the Transferee

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[1] *Digest*, 45, I., 38

This transaction may be regarded in two lights: either as the mere transfer of the Creditor's Rights to the Transferee: or as the Creation of a new Contract which cancelled, discharged and extinguished the former one. In the latter view it was what is called in Roman Law a *Novatio*

But, nevertheless, though it may be true in theory that a Creditor cannot transfer his Right of action without the consent of the Debtor: yet, in the progress of civilisation and mercantile ideas, traders who had sold their goods on Credit began to perceive that they might utilise their Credits, or Debts, by using them like Money to purchase fresh goods with: and so they began to insist upon the Right to transfer and sell their Debts, like any other property, and there was a very good reason for this: because in the Contract, or Obligation, of Debt, there is manifestly a strong distinction between the two parties, the Creditor and the Debtor

The Debtor cannot substitute a new Debtor for himself, because the Creditor may not have the means of knowing the solvency of the substituted Debtor: as, for instance, no Debtor can compel his Creditor to accept payment of a Debt in the Notes of a country banker: or in another person's Cheque

Therefore, by the very nature of things, the consent of the Creditor is necessary to the substitution of a new Debtor

But the case of the Debtor is quite different. If a person really owes a Debt, and has the means of paying it, it cannot make the slightest difference to him whether he pays it to A or to B: so long as he can get a valid discharge for it: and is not liable to pay it twice over

Hence it is evident that while it might seriously prejudice a Creditor to have a new Debtor assigned to him, of whom he might know nothing : the assignment of a new Creditor can be no real prejudice to the Debtor

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[1] *Gaius*, II., 38

In course of time Creditors both in Rome and England insisted on having the right to sell their Debts : and certain legal devices were adopted to enable the Transferee to obtain payment from the Debtor, even although he had not given his consent to the transfer. Till at last Creditors in both countries established their right to do so, even without the consent of the Debtor

Thus, at last, after centuries of conflict, Credits or Debts have come to be as freely transferable as Money itself : and in fact they are for all practical purposes in all respects equivalent to an equal increase of Money. And thus they come to be both *Jura in personam* and *Jura in re*. And it is this absolute freedom of the sale of Debts which has been the principal cause of the stupendous progress and magnitude of modern commerce

### *On the* **Transfer** *of* **Credits** *or* **Debts** *in Roman Law*

**28.** It has just been shown that originally, in the Unilateral Contract between Creditor and Debtor, the Creditor could not sell or transfer his Debt, or Right of action, to any one else, so as to enable the Transferee to sue the Debtor without his own consent

The Transferee could not sue the Debtor, because he never made any promise that he would pay the Transferee : and thus there was no privity of contract between them : and the Creditor could make no engagement that the Debtor should pay the Transferee : because no person can stipulate, or make a contract for another person, without his consent

If, however, the Debtor agreed that his Creditor might transfer his Right of action, it might be done. The Debt being a mere abstract Right, was not capable of being transferred by manual delivery : but it could be transferred by Oral consent

The Creditor, the Debtor, and the Transferee met together[1] : and the Creditor with the assent of the Debtor, transferred his Right to the Transferee by word of mouth. The Debtor agreed by word of mouth to pay the Transferee : the Creditor then by word of mouth, released the Debtor from his debt to him : and the Transferee by word of mouth released the Creditor from his debt to him

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[1] *Gaius*, II., 38

A new Contract was created, which cancelled and extinguished the two preceding ones : and it was, therefore, called **Novatio** : and the assignment of the Debtor to the Transferee was termed **Delegatio** : when this solemn stipulation was completed, the Transferee might sue the Debtor in his own name : because there was now a privity of contract between them

As the commercial spirit increased at Rome Creditors began to perceive that they might utilise their Debts by using them like Money in commerce to buy fresh goods with : and they soon began to devise means of transferring them, even without the consent of the Debtor. Accordingly, though they could not devest themselves of the legal estate in their Debts, so as to enable the Transferee to sue the Debtor in his own name, in course of time certain legal devices were adopted, so as to enable the Transferee in an indirect way to recover the debt from the Debtor, even though he had not given his consent to the transfer of the debt

We have now to trace the steps in Roman Law by which a Creditor came at last to have the legal right to sell or transfer his debt, without the consent or knowledge, and even against the consent, of the Debtor : and the Transferee acquired the right to sue the Debtor in his own name

The early simplicity of the Code of the XII. Tables knew nothing of Trustees, or Attornies. Every man was either the absolute proprietor of a thing or he was not.[1] He who possessed the legal estate was termed *Dominus ex jure Quiritium*, or the proprietor by the common law of the Romans. It knew nothing of double or subordinate rights. The code of the XII. Tables allowed no man to sue in the name of another in private cases.[2] He alone who was *dominus ex jure Quiritium* might sue, and that in person : and as no man could sue unless there was some contract, or relation, between them, the transferee of the debt could not sue the debtor, because there was no privity of contract between them

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[1] *Gaius*, II., 40

[2] *Gaius*, II., 82 : *Digest*, 4, 17, 123 : *Basil.*, II., 3, 123

The Code of the XII. Tables was maintained in all its strictness for about 277 years. During all this period the forms of writs of action were defined with the greatest strictness. They were called *Legis Actiones*: or, as we might say, Common Law writs: and as long as these lasted, no one could sue in the name of another, or on behalf of another. Consequently, as far as we can understand, the Transferee of a debt could in no way, direct or indirect, maintain an action against the Debtor

But in the progress of time, new rights, new interests, new wants, and new ideas grew up: and a great equitable jurisdiction came into existence to meet these new requirements. The supreme judicial magistrates, the City and Foreign Prætors were clothed with the power *Adjuvandi vel supplendi: vel corrigendi: juris civilis gratiâ, propter utilitatem publicam*. The Romans had so deep a reverence for their Code, which Cicero declares to contain in one chapter more utility than all the libraries of the philosophers[1] that the Prætors were not allowed actually to abolish any of its laws: but only to supply their defects, and to extend their meaning. But new rights, and new interests had grown up, which were not capable of being protected directly by law, unless by the actual repeal of some of the provisions of the Civil Code

Among these new rights were Equitable Interests. One person might be possessed of the legal estate in certain things: but permit another to enjoy their use and profit: without undergoing the formal solemnity of the transfer by mancipation, or the *cessio in jure*. The original owner therefore possessed the *nudum jus Quiritium*: or the mere legal estate, while the grantee possessed the profitable, equitable, or as the mediæval jurists termed it, the *Bonitarian* use. But the Code of the XII. Tables gave no right of action to the equitable owner

Thus if a Creditor transferred his Debt, or Right of action, without the consent of the Debtor, he alone possessed the *nudum jus Quiritium*, or the legal estate in it: but the Transferee possessed the equitable right to it: but he had no Right of action on it, by the Code of the XII. Tables

About the year 577 A.U.C. or 176 B.C. the *Lex Æbutia* abolished the old *Legis actiones*, which were not part of the XII. Tables: but only a series of writs framed by the magistrates, so as to be adapted to them. New forms of writs were prepared under the authority of the Prætors, called *Formulæ:* and these were adopted and extended by two *Leges Juliæ*, about 45 B.C.: and about 25 B.C.[1]

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[1] *De Oratore*, I., 4

By these new *formulæ* parties were allowed to be represented by *Cognitores* or *Procuratores:* that is, by Attornies: who were allowed to sue on behalf of their clients. The Transferee of the debt was then allowed to sue as the *Cognitor* or *Procurator* of the Transferor.[2] Gaius gives the *formula* in such a case[3]

The Prætor could only grant an *actio directa*, or *vulgaris*, to the original Creditor: but he could grant an *actio utilis* or *fictitia* to the Transferee of the Debt

When a Creditor sold his right of action he was said *cedere* or *mandare actionem*.[4] The Transferee was called *Procurator in rem suam*[5]: and he was acknowledged as the real plaintiff, *si in rem suam datus sit procurator loco domini habetur:* his mandate could not be revoked: and he owed no account to his principal[6]

Such was the state of the Law regarding the sale or transfer of Debts in the time of Gaius, who is generally supposed to have written his Institutes in the time of the Antonines. They were the text-book of Law throughout the whole Empire when the Romans abandoned Britain, and many high authorities suppose that they were greatly the source and origin of the Common Law of England: and the Common Law of England with regard to the sale or transfer of Debts was exactly that stated by Gaius.

Soon after the the time of Gaius, however, the Emperor Alexander Severus published a Constitution by which the absolute freedom of the sale of Debts without the knowledge or consent of the Debtor was recognised and allowed

Ulpian says[7]—"Nomina eorum qui sub condicione vel in diem debent, et emere et vendere solemus: ea enim res est quæ emi et venire potest"

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[1] *Gaius*, IV., 30

[2] *Gaius*, II., 39

[3] *Gaius*, IV., 86

[4] *Digest*, 15, 33, 5: 16, 3, 2: 17, 1: 19, 1, 31: 44, 7, 7: 46, 3, 76

[5] *Digest*, 3, 30: 17, 1, 8, 10: 44, 4: 4, 18, 24

[6] *Codex*, 4, 10, 1

[7] *Digest*, 18, 4, 17

"*We are accustomed to buy and sell Debts payable on a certain event or on a certain day: for that is Property which can be bought and sold*"

Justinian in 531 declared it to be lawful to sell all actions, real as well as personal[1]

"Certi et indubitati juris est, ad similitudinem ejus qui personalem redemerit actionem, et utiliter eam movere suo nomine conceditur, etiam eum qui in rem actiones comparaverit eadem uti posse facultate"[2]

"*It is clear and undoubted law, that just as he who has bought a Personal action may sue out a writ in his own name: so he who has bought a Real action has the same power*"

"So also[3]—"Nominis venditio etiam ignorante vel invito eo adversus quem actiones mandantur, contrahi solet"

"*It is usual to sell a Debt without the knowledge, or even against the consent of the Debtor*"

So also—"Omnium rerum quas quis habere vel possidere, vel persequi potest, venditio recte fit"

"*All things which one may have or possess, or has the right to sue for, may be lawfully sold*"

So also[4]—"Nomina quoque in diem vel sub conditione contracta, veneunt"

"*Debts, also, due on a certain day, or on a certain event, may be sold*"

In the time of Gaius, the Transferee of a Debt could only sue as the Attorney of the Transferee: as he was obliged to allege the legal estate, or *jus Quiritium*, of the Transferor: but Justinian took away the necessity for this: and abolished the *nudum jus Quiritium*, as an antiquated relic of old Roman law which was only an enigma which puzzled law students,[5] and then the Transferee could sue in his own name

Diocletian enacted—"Ordinarium visum est post nominis venditionem uti emptori (sicut responsum est) vel ipsi creditori postulanti dandæ actiones"

"*It is seen that it is usual, after the sale of a Debt, to grant a*

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[1] *Codex*, 4, 39, 9 [2] *Codex*, 4, 39, 9 [3] *Codex*, 4, 39, 3

[4] *Digest*, 18, 4, 17 [5] *Codex*, 7, 25

*writ either on the demand of the buyer (as has been decided), or of the creditor himself"*

Thus, at length, Debts were completely emancipated from the general rules affecting Property held in Contract. They were made as freely saleable as any material chattels: and they were thus removed from the category of Property held in Contract to that of Property held in Dominion: and thus Debts became both *Jura in personam* and *Jura in re*

These laws affecting the sale, or transfer, of Debts were confirmed in the Basilica

Thus, it is said[1]—" *καὶ ὅτι τὰ ὑπὸ ἡμέραν, καὶ τὰ ὑπὸ αἵρεσιν χρέα πιπράσκονται* "

" *Debts payable on a certain day and on a certain event may be sold* "

So also[2]—" *καὶ ὅτι τὸ ποῦρον χρέος ὑπὸ αἵρεσιν πιπράσκεται, καὶ ὑπὸ αἵρεσιν πούρως* "

" *A simple Debt may be bought conditionally, and a conditional Debt simply* "

So again[3]—" *ἥ τοῦ γραμματείου πρᾶσις καὶ ἀγνοοῦντος καὶ μὴ βουλομένου ἐκείνου, καθ' οὗ ἐκχωροῦνται αἱ ἀγωγαί, δύναται συνίστασθαι* "

" *A Debt may be sold without the knowledge, and even against the consent of the Debtor* "

Thus, the interests of commerce effected the perfect freedom in the sale of Debts. Both by the Digest which was the Code of the Western Empire, and the Basilica which was the Code of the Eastern Empire, Debts were declared to be as freely saleable as Money, or any other chattel

Thus, Azo, one of the legal luminaries on the revival of juridical studies in the West, says—

" De actionibus autem venditis sciendum est quod omnes actiones vendi possunt, sive sint puræ, sive conditionales, sive reales, sive Personales "

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[1] *Basil.*, 19, 4, 16

[2] *Basil.*, 19, 4, 68

[3] *Basil.*, 19, 4, 27

"*But with respect to the sale of actions it must be known that all Rights of action, whether simple or conditional, whether real or Personal, may be sold*"

Nevertheless, although it was the general law of the Empire that all Debts might be freely sold, it was found to work so much hardship that many cities in the Middle Ages passed local laws prohibiting the sale of Debts within their jurisdiction

This investigation clears up a difficulty which has puzzled some modern writers. The earliest Bills of Exchange extant, which are preserved in the archives of Venice, contain no words of negotiability: and yet we know as a fact that they were negotiated. Several writers have endeavoured to discover when Bills of Exchange were made negotiable. Some have attributed it to Cardinal Richelieu. But all doubts have now been cleared up. Bills of Exchange required no words of negotiability to make them negotiable: they were as transferable as Money itself, by the general mercantile law of Europe

This also explains a fundamental distinction between the Common Law of England and the Common Law of Scotland, with respect to Bills of Exchange. By the Common Law of England unless a Bill of Exchange is drawn payable to "order" or to "bearer": that is, unless it is made transferable by the consent of the Debtor expressed on its face: it cannot be transferred so as to enable the Transferee to sue the Acceptor in his own name. But by the Common Law of Scotland a Bill of Exchange requires no words of negotiability to make it transferable: the Law of Justinian on mercantile matters is the Common Law of Scotland: a Bill of Exchange is therefore in its very nature transferable by the *lex loci contractûs:* and being so, a Scotch Bill is negotiable in England without any words of negotiability. Moreover, by the Law of Scotland a Debtor is bound to accept a Bill drawn upon him by his Creditor, and is liable to an action for non-acceptance. This, however, is not the case in England: a Debtor in England is not bound to accept a Bill drawn upon him by his Creditor, and this distinction has been preserved and confirmed by the Bills of Exchange Act of 1882. And the reason of this difference is that the Law of the Pandects and the Basilica is the Common Law of Scotland: while the Common Law of England is that of Gaius

Equity, however, always adopted the Law of the Pandects, which allowed the free sale of Debts: and, consequently, though the Transferee of a Bill which contained no words of negotiability could not maintain an action at law against the acceptor, he could always sue him in equity, in case of need. But the Supreme Court of Judicature Act of 1873 enacts that in all cases in which the rules of Equity conflict with those of Common Law, the rules of Equity shall prevail: consequently, Bills of Exchange are now transferable without any words of negotiability

## *On the Rules of* **English Equity** *and* **Common Law** *as to the* **Transfer** *of* **Credits** *or* **Debts**

**29.** English Equity from its first institution adopted the entire doctrine of the Pandects and the Basilica relating to the transfer of Debts. A Creditor had always the right to transfer his Debt without the knowledge or consent of the Debtor: and the Transferee had always the right to sue him in Equity, if need be

But at the time the Romans left Britain in the beginning of the fifth century, Gaius was the text-book of Law throughout the Empire, and the Common Law of England with respect to the transfer of Debts was exactly that set forth by Gaius

If the Debt was in the mere abstract form, and not recorded on any material, the Creditor, the Debtor, and the Transferee might meet together: the Creditor, with the consent of the Debtor, might transfer his Debt to the Transferee: and then the Transferee might sue the Debtor, because there was now a privity of contract between them.[1] This operation, as we have seen before, is a Novation

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[1] *Tatlock* v. *Harris* (3 T.R. 180). *Fairlie* v. *Denton* (8 B.C. 395). *Williams* v. *Everett* (14 East 582). *Hodgson* v. *Anderson* (3 B. and C. 482). *Lilly* v. *Hays* (5 A. and E. 548). *Walker* v. *Rostron* (9 M. and W. 411). *Hamilton* v. *Spottiswoode* (4 Exch. 200). *Griffin* v. *Weatherby* (L.R. 3 Q.B. 753)

But in accordance with the early law of Rome, a Creditor in England could not transfer his Debt to a Transferee without the consent of the Debtor, so as to enable the Transferee to sue the Debtor: because there was no privity of contract between them: and the Creditor had no power to stipulate that the Debtor should pay him

But as at Rome, in the progress of civilisation Creditors began to insist upon the right to sell their Debts without the consent of the Debtor, and devised a legal fiction to enable them to do so: so the very same thing took place in England

At Rome the Transferee was allowed to sue as the attorney of the Transferor, and to retain the proceeds for his own use: in England as early as Henry VI. the transferee was allowed to sue in the name of the Transferor: or the Transferor sued as the Trustee for the Transferee

And this continued to be the Common Law of England with regard to the Transfer of Debts to which the Debtor had not given his assent until the 1st of November, 1875, when the Supreme Court of Judicature Act of 1873 came into operation: which swept away all the doctrines of Common Law which conflicted with those of Equity

Thus, the rule of Common Law that a Debt cannot be transferred without the consent of the Debtor was reduced to a fiction. And some eminent judges reared up under the supremacy of Lord Mansfield, maintained that the Courts of Common Law might sweep away this absurd fiction, and adopt the full doctrines of Equity

Thus, in 1787, Ashhurst, J., said[1]—"It is true that formerly the Courts of Law did not take notice of an Equity or a Trust: for Trusts are within the original jurisdiction of a Court of Equity: but of late years it has been found productive of great expense to send the parties to the other side of the Hall. Wherever this Court have seen the justice of the case has been clearly with the Plaintiff, they have not turned him round upon this objection. Then, if this Court will take notice of a Trust why not of an Equity?"

In another case Buller, J., who may be considered as the

[1] *Winch* v. *Keeley* (T.R. 619)

*adlatus* of Lord Mansfield, said[1]—"It is laid down in our old books that for avoiding maintenance a *chose-in-action* cannot be assigned or granted over to another (Co. Litt., 214, a: 266 a, 2 Roll., 45 : 1, 40). The good sense of that rule seems to me to be very questionable: and in early as well as in modern times it has been so explained away, that it remains at most only an objection to the form of action in any case. In 2 Roll., Abr., 45 and 46, it is admitted that an Obligation or other deed may be granted, so that the writing passes: but it is said that the Grantee cannot sue for it in his own name. If a third person be permitted to acquire an interest in a Thing, whether he is to bring the action in his own name, or in the name of the grantor, does not seem to me to affect the question of maintenance. . . . . Courts of Equity from the earliest times thought the doctrine too absurd for them to adopt, and, therefore, they always acted in contradiction to it : and we shall soon see that Courts of Law also altered their language on the subject very much. In 12 *Mod.*, 554, the Court speaks of the assignment of an apprentice, or an assignment of a bond, as things which are good between the parties, and to which they must give their sanction, and act upon. So the assignment of a *chose-in-action* has always been held a good consideration for a promise. . . . . After these cases we may venture to say that the maxim was a bad one : and that it proceeded on a foundation that fails. But still it must be admitted that though the Courts of Law have gone the length of taking notice of assignments of *choses-in-action*, and of acting on them, yet in many cases they have adhered to the formal objection that the action shall be brought in the name of the assignor, and not in the name of the assignee. I see no use in preserving the shadow when the substance is gone : and that it is merely a shadow is apparent from the later cases in which the Courts have taken care that it shall never work injustice. . . . But admitting that on account of this quaint maxim, an action cannot be maintained by an assigneed of a *chose-in-action* in his own name, it remains to be considered whether that objection ever did hold, in the case of a mercantile instrument, or transaction. The Law merchant is a system of Equity founded on the rules of Equity [Justinian], and governed in all its parts by plain justice and good faith . . . . . . . . I can find no instance in which the objection has prevailed in a mercantile case: and in the two instances most universally in use it undoubtedly does not hold : that is in the case of Bills of Exchange and Policies of Insurance, till the late Act was made requiring that the name of the person interested should be inserted in the policy, the constant course was to make the policy in the name of the broker : and yet the owner of the goods maintained an action on it. *Circulation and the transfer of property are the life and soul of trade, and must not be checked in any instance,*" and he then cited the case of *Fenner* v. *Meares*

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[1] *Master* v. *Miller* (4 T.R. 320)

In another case the same Judge said[1]—"During the fifteen years that I have sat on this bench, I have never known any case which established a distinction between Courts of Equity and Law on subjects of this kind. I have always thought it highly injurious to the public that different rules should prevail in the different courts on the same mercantile case. My opinion has been uniform on that subject. It sometimes indeed happens that in questions of real property, Courts of Law find themselves fettered with rules from which they cannot depart, because they are fixed and established rules : though Equity may interpose, not to contradict, but to correct, the strict and rigid rules of law. But in mercantile questions no distinction ought to prevail. *The Mercantile Law of this country is founded on principles of Equity : and when once a rule is established in that Court as a rule of property, it ought to be adopted in a Court of Law*"

These are indeed—

"Aurea dicta
Aurea perpetuâ semper dignissima vitâ"

Though these eminent Judges gave it as their opinion that the Courts of Law had it in their power, and ought to adopt the rules of Equity with regard to the Transfer of Debts, in which they were undoubtedly right, the Courts never had the courage to do so. And judges after judges complained of the great scandal that in this mercantile country there were two conflicting systems of jurisprudence in which the same mercantile case would be decided in contrary ways. And it was more than eighty years before this scandal was abolished by law

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[1] *Toole* v. *Hollingworth* (5 T. R., 215)

But when an Obligation was created transferable by the Obligor himself, the Courts of Law for 550 years unanimously held that it might be transferred, and that the Transferee might sue the Obligor in his own name

Thus Bracton, the prince of English Jurists, writing about 1250, adopts the division of property into Corporeal and Incorporeal, and afterwards considers Obligations

He says[1]—"We must consider in the first place what an Obligation is, and how it is contracted, and through what words and through what persons an Obligation is acquired: and in what way it is dissolved, and got rid of: and in what way after it has been dissolved it may be renewed: and how it may be **Transferred** to another party: and how one Obligation may be changed into another"

And in describing the various methods by which an Obligation is extinguished, he says[2]—"Likewise by **Novation**: as if the Obligation has been **transferred** from one person to another who has taken the Obligation upon himself. For by the intervention of a new Person, a new Obligation arises: and the first is extinguished by agreement: as when a person has taken upon himself the Obligation of another"

It may be useful here to inform the lay reader, that in technical English Law a "**writing**" means a Deed under Seal, or a Specialty: and that a mere modern simple writing is classed under parol evidence. Also that in early English Law only Writings, or Deeds under Seal, were admissible in the Courts of Common Law. Mere verbal contracts could only be sued upon in the Ecclesiastical Courts, such as the Court of Chancery

Hence, when the word Obligation occurs in early English Law, it invariably means a Deed under Seal, or a Specialty

But in the Law Merchant which is Roman Law, a promise, or an Obligation, expressed in simple writing is absolutely binding without any consideration. It has exactly the same force and efficacy in Roman Law as a Deed under Seal, or a Specialty, in English Law, which requires no consideration

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[1] *De Leg. Ang.*, I., 12. 3

[2] *De Leg. Ang.*, III., 2, 13

Now as the Law Merchant is expressly declared to be an integral part of the Common Law, it follows that simply written Bankers' Promissory Notes and Mercantile Bills of Exchange are equally valid at Common Law as Deeds, or Specialties. The importance of this doctrine will be seen further on

And from 1292 to 1800, there is an unbroken series of decisions in the Courts of Law, that an Obligation created Transferable by the Obligor himself is transferable, and that the Transferee might sue the Obligor on it

In 1292 the Assignee of a Charter was allowed to have an action against the Grantor

In 1368 (Y.B., 41 Edw. III., p. 27) three priests, Assignees of John, Bishop of Hereford, brought an action against the Abbot of T., for arrears of annuity, which he had granted to the Grantee and assigns. It was pleaded at the bar that *Choses-in-action* were not assignable at Common Law. But the Court unanimously held that the Assignee might sue

In two cases in Edward IV. (Y.B. 5 Edw. IV., long quinto: p. 42: and Y.B. 21 Edw. IV., p. 20, c. 28) it was held that the Grantee of an annuity had the right to grant it over

In *Baker* v. *Brooke* (*Benloes*, c. 55: *Dyer*, 68, 1) Brooke, the parson of Bosworth, granted an annuity to the Grantee and his assigns during his lifetime. The grantee assigned it: and the assignee brought an action against the grantor for arrears. It was argued that it was against the very nature of an annuity to be assignable over: and that it was a matter of common learning that a *chose-in-action* could not be granted over by a private person. But Montague, C.J., said the Cóurt were unanimously of opinion that the count was good, and that the assignee might sue the grantor

And referring to this case Coke says[1]—"A writ of annuity is a writ for the recovery of an annuity. An annuity is a yearly payment of a sum of money granted to another in fee, for life, or for years, charging the person of the grantor only. But, not only the grantee but his heir and the grantee also, shall have a writ of annuity"

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[1] *Co. Litt.*: 144 *c.*

Thus, Coke expressly acknowledges that an Obligation made transferable by the Obligor might be transferred: and this doctrine was again affirmed in a case in his own reports

In *Maund* v. *Gregory* (7 Co. Rep., 28, 1), 1602, Gregory had a rent-charge for his life to one and his assigns. The grantee assigned it over, and the assignee distrained for arrears. It was resolved by the Court that a rent-charge, or *chose-in-action*, granted to one and his assigns may be assigned over by the express words of the grantor who granted it to him and his assigns for "*modus et conventio vincunt legem*"

This doctrine was again affirmed in the Common Pleas in *Gerrard* v. *Boden*, in 1628 (*Hetley*, 80). Boden had granted an annuity to a person and his assignees: Gerrard the assignee sued him. It was argued that it was merely contrary to the nature of an annuity to be assigned over to another: and that it was common learning that a thing-in-action cannot be assigned over: unless it be the grant of the king. But Hutton, J., said—"We are agreed that the annuity may be granted over"

Thus, after it had been alleged at the bar for some hundreds of years that *choses-in-action* could not be made assignable at Common Law, and on every occasion the Court had decided against it, this dogma disappeared for a time, and was never heard of again till 1800, as we shall see •

Not only obligations in the form of personal annuities, which are most usually recognised as *choses-in-action*, were thus, by an unbroken series of decisions, held to be transferable when made so by the Obligor himself: but also all other kinds of Obligations, which were not so generally recognised as *choses-in-action* were also made alienable and transferable

A strict military feud was by its very essence and nature inalienable, and such only are called proper feuds by feudal writers. But gradually this rigor was relaxed, and feuds were created alienable and saleable

Sir Martin Wright says[1]—"All feuds therefore that are sold or bartered for any immediate or contracted equivalent: or are granted free of all services: or in consideration of one or more certain services (whether military or non-military), or upon a cens: or rent: in lieu of services: and all such feuds as are by express words in their creation or constitution, alienable, are improper feuds: and are severally treated of by the feudists under the head of feuda emtitia, franca, censualia, emptitoria, alienabilia, &c."

Thus, though a feud was not originally alienable, yet wherever the grantor made and created it alienable by granting it to his grantee and assigns, it was assignable, and the assignee might sue

In *Mallory* v. *Symond* (Y.B., 9, Edw. II., p. 292, 443) the assignee of a charter was found to have an action against the grantor who granted it to the grantee and his assigns

It also became common for a lessor to grant leases to the lessee and his assigns, and such leases were assignable

*Choses-in-action* formed a very small portion of Roman property: they consisted almost entirely of Credits or Debts, and the rule respecting their non-assignability of course only applied to them. But this rule applied to far the greater portion of Property under the Feudal System: and the rule of free alienability only applied to the comparatively insignificant amount of personal property

The essence of Roman polity was equality and absolute dominion. By the Common Law of the Romans every man was the absolute proprietor of his possessions, including his wife, children, and slaves. He did not live in a state of contract with them. As regarded his *familia*, he was *Dominus ex jure Quiritium;* as regarded his fellow citizens, he was their equal. Consequently the state of Contract between Roman citizens was comparatively rare, principally confined to that of Creditor and Debtor; and also to that of Patron and Client. And as we have already seen, Debts by the early Roman Law, were not assignable without the consent of the Debtor

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[1] *On Tenures*, p. 33

But the whole structure of Feudal Society was essentially different from Roman Equality and Dominion. The very essence of Feudalism was that the *Dominium* of the soil was vested exclusively in the Sovereign, as the representative of the nation. Absolute property in the soil, either the Dominium of the Romans, or the Allod of the Germans, was impossible in a private person. And says Sir Martin Wright[1]—"It is so absolute a maxim, or principle of the Law of Tenures, that all the lands in England are holden either mediately or immediately of the King, that even the King himself cannot give lands in so absolute and unconditional a manner, as to set them free from tenure"

The Sovereign granted feuds to his followers first during pleasure, then for life, and then in perpetuity, but always on the express condition of certain definite services being rendered. These tenants were consequently in a state of contract with him. They in like manner granted out parcels of their tenures to their vassals on certain conditions, and those vassals again, would have further divided their grants, if they had not been restrained by Law

The result of this was that the whole state of Society was one of Contract. The structure of Roman Society was essentially level; the structure of Feudal Society was essentially pyramidal. Every one from the highest to the lowest was fixed in a state of Contract. The intermediate ranks were in a state of double Contract, both with those above them, and those below them. The consequence was that no one could change his position, or alienate his property, without the consent of the other parties to the Contract, as we have seen was said by Sir Martin Wright

Thus, in a state of pure Feudalism, the tenant of land could not substitute another person for himself, at his own will and pleasure, without the consent of the other party, any more than a Creditor, or Debtor, could substitute another person for himself, without the consent of the other party, and for the very same reason—that it was Property held in Contract

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[1] *Tenures*, p. 137

Hence the law relating to *choses-in-action* was not peculiar to them ; it was exactly the same as applied to the whole land of the Kingdom. It was simply one example of a universal principle which might be illustrated from many other countries if necessary.

' The original contract between Lord and Vassal was bilateral: because it involved Rights and Duties on both sides: and consequently the Lord could not alienate his seignory without the consent of his vassal: he could not **attorn**, or turn over, the homage or service of his vassal to another person against his will: and if the tenant refused to attorn, the grant was void. Just as a Creditor could not attorn his Debtor to another person without his own consent. But if the vassal agreed to the transfer of the seignory, he was said to attorn to the new seignor

But when internal peace and security were established, the relation between Lord and Vassal gradually changed from a bilateral to a unilateral contract. The vassal came to look to the general law of the land for protection to his person and property, instead of to his immediate Lord : and all the various services of the vassal were reduced to the simple payment of **Rent**

Consequently the relation between Lord and Vassal was reduced to the simple one of Creditor and Debtor : or that of Landlord and Tenant at the present day

When the relation between Landlord and Tenant was reduced to a simple unilateral contract, the same principle began to be applied to it as had already been applied in Roman Law to the law of Creditor and Debtor. It was no real prejudice to the Debtor to whom he paid his Debt so long as he was not called upon to pay it twice over. So it was no real prejudice to a tenant to whom he paid his rent : so long as he was not called upon to pay it twice over. The doctrine of attornment came to be felt to be a burdensome restraint on the alienation of land: and several methods were adopted to evade it. In all cases where the Statutes of Wills and Uses applied, attornment was declared to be unnecessary. And many other cases are given in Comyn's Digest

Between the time of Littleton and Coke a further step was made: for in several cases if the tenant refused he might be compelled to attorn[1]

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[1] *Co. Litt.*, 315 *b*, 316 *a*

At last the doctrine of attornment as regards grants and conveyances was entirely swept away and abolished by the Act, Statute of Anne, 1705, c. 16, ss. 9, 10 : which was drawn by the great Lord Somers : and estates in land were made freely transferable without the consent of the tenant

This Act of Anne is exactly parallel to the Statute or Constitution of Alexander Severus, already mentioned, declaring that a Creditor might freely sell his Debt, without the knowledge, or even against the consent of his Debtor

By these means, in the course of many centuries, a complete revolution was effected in the law relating to estates, or contracts relating to land. Whereas they were originally inalienable unless specially created so : at the present time all estates in land are freely alienable, unless granted with an express stipulation to the contrary : and even in many cases such a stipulation is void[1]

Bills obligatory, or personal Obligations, were like all writings at that period, Deeds under seal, or Specialties : and were no doubt at first made only to the Creditor himself. But the same principle began to be applied to them as was applied to all other Obligations. Though, as far as we are aware, no evidence exists to show when the practice began. Obligations to pay both in the form of what in modern language are termed Bills of Exchange and Promissory Notes, were drawn as Deeds under seal, or Specialties, and made transferable to attorney, or to assignees, or to bearer

Obligations in both forms were in current use in the City of London in the reigns of Edward IV. and Henry VII., and specimens of these are given in a following chapter. As they are given as common forms in these reigns, it follows that they must have been long in use. It is somewhat remarkable that there is no instance of any of these Obligations having come before a Court of Law

The last instance of a Bill of Exchange drawn as a Deed under seal that occurs in the reports is in 1680. During this century it appears that merchants began to use simply written

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[1] *Stephen's Blackst.*, i. 409

Bills of Exchange in the modern form: and so Bills under seal and signed Bills circulated concurrently in commerce: though it is stated in the edition for 1707 of the "*Les Terms de la Lei*" that merchants were only then establishing their right to maintain the same action upon signed Bills as upon sealed Bills. Now, as we have already explained, signed Bills are exactly as valid by the Law Merchant as sealed Bills by the Common Law: and as it is acknowledged that the Law Merchant is part of the Common Law: it follows that signed Bills were perfectly valid at Common Law. After that the custom of sealing Bills entirely died out

With the establishment of banking, bankers adopted the custom of issuing their signed Promissory Notes. These were treated as Bills of Exchange, and in several cases bankers' notes payable to bearer on demand were held to be perfectly legal and valid instruments[1]

But soon a strange conflict of decisions arose: and in a series of cases it was held that the "bearer" had no action against the acceptor of a Bill, or the maker of a Note, drawn payable to "bearer": that Promissory Notes were not within the custom of merchants: and could not be declared upon as Bills of Exchange: that they were illegal at Common Law: and that they could not be sued upon in any form as instruments: though they might be offered as evidence of a Debt

In several cases it was held by the King's Bench, presided over by Lord Holt, that a promissory Note payable to bearer on demand could not be sued upon by the bearer[2]

Up to this time the legality of Promissory Notes made payable to order had not been questioned: but by an extraordinary example of judicial finesse it was held that a note payable to bearer gave no authority to the bearer to endorse it. The Courts, after allowing that the bearer might sue the maker in

[1] *Shelden* v. *Hentley*, 1681 (2 Show., 1601). *Hinton's Case*, 1681 (2 Show., 235). *Williams* v. *Williams*, 1693 (Carth., 269). *Lambert* v. *Oakes*, 1699 (1 *Lord Raymond*, 443). *Bromwich* v. *Loyd*, (2 *Lutw.*, 1593)

[2] *Hodges* v. *Stewart*, 1691 (1 *Salk.*, 125). *Horton* v. *Coggs*, 1691 (3 *Lev.*, 299). *Nicholson* v. *Sedgwick*, 1698 (1 *Lord Raym.*, 18). *Cogg's Case*, 1699 (*Comber*, 406). *Carter* v. *Palmer* (*Comber*, 406). *Jordan* v. *Barlow*, 1701 (3 *Salk.*, 67)

some cases, at last reversed this opinion, and held that the bearer had no action against the maker: but they held that the indorsee might sue his indorser: because every indorsement is a new drawing

Moreover, up to this time Promissory Notes had been usually declared upon as Bills of Exchange: and in the legal phraseology of the times, what in modern language is termed making a Note was termed drawing a Bill: and the maker of the note was termed the drawer

But in *Clarke* v. *Martin*, 1703 (2 Ld. Raym. 787), Lord Holt held that Promissory Notes in any form were illegal. In this case a Promissory Note drawn payable to A. B., or order, was declared upon as a Bill of Exchange, as was then the usual practice: and had been admitted by Holt himself in several cases

But now he set his face against Promissory Notes in any form. The report says—"But Holt, C.J., was *totis viribus* against the action, and said this Note could not be a Bill of Exchange: that the maintaining these actions upon such Notes were innovations upon the rules of the Common Law, and that it amounted to setting a new sort of **Specialty**, unknown to the Common Law, and invented in Lombard Street, which attempted in these matters to give laws to Westminster Hall: that the continuing to declare upon these Notes upon the custom of merchants proceeded from obstinacy and opinionativeness." And the whole court agreed that Promissory Notes in any form were illegal at Common Law

In *Cutting* v. *Williams*, 1703 (7 Mod., 155), the Court unanimously adhered to the decision in *Clarke* v. *Martin*. Holt said that he had proposed it to all the judges whether a declaration upon a Promissory Note could be supported: and they were all of opinion that a declaration upon a Promissory Note upon the custom of merchants was void, as it made a **Note** amount to a **Specialty**

The last case is *Buller* v. *Crips* (6 Mod., 29). The indorsee of a Note drawn payable to A.B., or order, brought an action against the maker, or drawer, and declared upon it as a Bill of Exchange within the custom of merchants. But Holt had now decidedly put his foot down, and had drawn all the other judges over to his own opinion. He said—"The Notes in question are only the invention of the goldsmiths in Lombard Street, who had a mind to make a law to bind all those who did deal with them: and sure to allow such a Note to carry any lien with it, were to turn a piece of paper, which in law is but evidence of a parol contract, into a **Specialty**: and besides it would empower one to assign that to another which he could not have himself: for since he to whom this Note was made, could not have this action, how can his assignee have it? And these Notes are not of the nature of Bills of Exchange: for the reason of the custom of Bills of Exchange is for the expedition of trade and its safety: and likewise it hinders the exportation of money out of the realm"

On a subsequent day Lord Holt said that he had desired to speak with two of the most famous merchants in London to be informed of the mighty ill consequences that it was pretended would ensue by obstructing this course, and that they had told him it was very frequent with them to take such Notes: and that they looked upon them as Bills of Exchange: and that they had been used for a matter of thirty years: and that not only Notes, but **Bonds** for money were transferred frequently, and indorsed as Bills of Exchange

As the decision of Lord Holt and his Court that Promissory Notes in any form whatever were illegal seemed unalterable, the Act, Statute 1704, c. 9, was passed, which, having recited that it had been held that Notes in writing signed by the party who makes the same, whereby such party promises to pay to any person, or his order, any sum of money therein mentioned, are not assignable, or indorsable over, within the custom of merchants: and that neither the payee himself nor his indorsees could maintain an action on such Notes: such Notes made payable to any person, or to order, or to bearer, should be placed in all respects on the same footing as Inland Bills of Exchange

It is obvious from what has been already said that these decisions of Lord Holt's were quite erroneous in point of law. Nevertheless, they were accepted by the profession as correct until 1868 with one solitary exception: and it was thenceforward supposed that it was the Statute of Anne which first legalised Promissory Notes

In *Grant* v. *Vaughan* (1 Black., 485), Lord Mansfield and the Court of King's Bench unanimously condemned them as erroneous. But, surprising as it may appear, this case on such a very important matter never attracted the least attention, and it continued to be held as law by all judges, and laid down in all text books of Mercantile Law that Promissory Notes are illegal at Common Law, and only first legalised by the Statute of Anne

In *Fenner* v. *Meares*, 1772 (2 W. Black., 1269), Meares had granted a respondentia bond to Cox, assignable by indorsement: Cox indorsed it to Fenner: and Fenner sued Meares. It was the first instance of the indorsee of a respondentia bond sueing the grantor

Blackstone, J., said—"The promise made by Meares is sufficient. Whatever would have been due by Cox is, by the assignment, transferred to Fenner. He ran the same hazard, and is entitled to the same benefit. And I see no reason why Meares should be in a better condition merely because his creditor is changed"

Nares, J.—"I think this is a particular promise to the Assignee, whenever any such should be"

De Grey, C.J.—"At the trial I gave an opinion that in point of law this action was maintainable: and I have seen no reason to change it. It would clog these securities and be productive of great inconvenience if they were obliged to remain in the hands of the first Obligee. This contract is, therefore, devised to operate upon subsequent assignments, and amounts to a declaration, that upon such assignment, the money which I have borrowed shall be no longer the money of A., but of B., his substitute. The Plaintiff is certainly entitled to the money in conscience, and, therefore, I think also in law: for the defendant has promised to pay any person that shall be entitled to the money"

This case as will be seen confirmed the long array of cases we have already quoted: and up to the year 1800 this doctrine was never disputed. For a period of 550 years the Courts of Common Law had displayed a liberal and enlightened spirit. Not only is it laid down by Bracton in 1250, that all obligations of any form are transferable, if made so by the Obligor himself, but the Courts of Law had uniformly acted upon this doctrine. Every new species of Obligation, as it came into existence according to the increasing wants and necessities of society, were declared by the Courts of Law to be transferable and assignable. The Courts upheld Transferability in every form as essential to the interests of commerce. And that all Obligations whether in the form of Deeds, Bonds, or Specialties, or in the form of simple writing—with one unfortunate exception—were transferable when made so by the Obligor himself

But in 1800 a disastrous change came over the spirit of the judges. Some narrow minded lawyers held that Lord Mansfield had introduced too much Equity into Common Law, whereas Mercantile Law is Equity, and he was succeeded by Lord Kenyon, who was said to be an able Common Lawyer but was totally wanting in the wide and liberal education of Lord Mansfield, and became a judge of the narrowest and most bigoted type. In fact Buller was so disgusted with the narrowness and bigotry of Lord Kenyon that he fled from the King's Bench and took refuge in the Common Pleas

In *Johnson* v. *Collings*, 1800 (1 East, 98), Lord Kenyon held that a promise given by a merchant to accept a bill before it was drawn was not a valid acceptance of the bill, contrary to the doctrine of Lord Mansfield in *Pillans* v. *Van Mierop:* and when the acceptance of a bill did not require to be in writing

He said—"That to allow this would be to say that a *Chose-in-action* is assignable : a doctrine to which I will never subscribe. I cannot as at present advised, and upon a general view of it, agree with the case of *Fenner* v. *Meares*"

Foolish old Grose, J., chimed in—"By the general rule a *Chose-in-action* is not assignable, except by the custom of merchants. The assignment of a *Chose-in-action* by a Bill of Exchange is founded upon that law : and cannot be carried further than that law will warrant"

Lord Kenyon was of a very masterful disposition, and his supposed learning imposed upon his weaker brethren, just as Lord Holt had done a hundred years before. And this solitary case swept away the doctrines of all the text-writers of English

Law, and the uniform decisions of the Courts of Law for 550 years!

The doctrines then established were—

1. That no Obligations can be created Transferable at Common Law
2. That Bills of Exchange in simple writing are, by the custom of merchants, the sole exception to this rule
3. That Promissory Notes are illegal at Common Law—and were only legalised by the Statute of Anne
4. That under no circumstances are Bonds, Deeds, Specialties, or Instruments under seal, transferable

Those who maintained these doctrines certainly showed great legal acumen: because if they had had any eyes to see, they would have perceived that the very ground upon which Lord Holt held that Promissory Notes in simple writing were illegal was that they were **Not** Deeds or Specialties!

This baleful doctrine was not long in bearing fruit. In *Glyn* v. *Baker*, 1810 (13 East, 509) the East India Company had issued bonds payable to the payee and his assigns. The Court held that they were not negotiable. This decision raised such a commotion that an Act was immediately passed to make East India Bonds negotiable like Promissory Notes

In 1857 a similar doctrine was laid down by Lord Chancellor Cranworth in the House of Lords

A Glasgow merchant had issued instruments promising to deliver 1,000 tons of pig iron free on board to the holder of the document. This instrument was held to be valid and legal by ten of the Scotch Judges against three

This instrument was simply a Promissory Note, payable in pig iron, instead of money: and though such notes are not in common use in this country, it is quite common in the South of Europe to draw Bills payable in produce

How any Scotch Judge could hold such a document illegal is beyond us to conceive. Because the mercantile law of Scotland is the law of Justinian: and by that law, every Action, whether personal or real, is saleable

Nevertheless this novel portent—a Promissory note payable in pig iron, and not in money—was too much for the nerves of Lord Cranworth : and he gave it as his opinion that the document was illegal. He said[1]—"The effect of such a document, if valid, is to give a floating Right of action to any person who may become possessed of it. Now, I am prepared to say that this cannot be tolerated either by the Law of Scotland or England [Lord Cranworth seems to have forgotten that Scotch Banks issue their Notes, which are floating Rights of action, by the Common Law of Scotland] . . . . Looking at the matter merely as advising your Lordships as a Court of Appeal, I have no hesitation in saying that independently of the Law Merchant, and of positive Statute, within which neither of these classes do these scrip notes range themselves, the Law does not either in Scotland or in England enable any man by a written engagement to give a floating Right of action at the suit of any one into whose hands the writing may come" [What about the whole series of cases we have already cited ?]

Most fortunately this was only the *opinion* of Lord Cranworth, and was not embodied in the judgment of the House of Lords, which is the only thing which could have made it law : and Lord Cranworth's *opinion* was perfectly open to criticism

The opinion then held by Lord Cranworth undoubtedly represented the opinion then held by all the Judges : and if it had been correct, it would have declared the whole business of banking to be illegal : because as will be shown in a future chapter, the whole business of banking consists in issuing floating Rights of action

An assumed consequence of this doctrine led to another long contest between the Courts of Law and the mercantile community

Bills of Lading were made transferable by indorsement like Bills of Exchange, and it was held that the master was warranted in delivering the goods to the Indorsee : but it was held in a series of actions that the Indorsee had no right of action against the master if he refused to do so : as it was held to come under the rule that *choses-in-action* were not transferable

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[1] *Bovill* v. *Dixon* (H.L. Cases, 1856)

Now terming a Bill of Lading a *chose-in-action* is a vital error. A *chose-in-action* is an abstract Right to compel a person to pay something which is his own property: and can only be brought against a Debtor. The money a person pays a debt with is his own property until he voluntarily parts with it

The goods the master carries in his ship are not his own property: and he is not a debtor for them: he is a pure Bailee, or Trustee. The property in the goods passes directly from the Consignor to the Consignee: and through him to the Indorsees. Hence the last Indorsee holds the actual property in the goods. This was fully acknowledged by the Courts. Nevertheless, the Courts held that the Indorsee could not bring an action to recover his own property from the master, but must sue in the name of the Consignor

This dogma, having been asserted in several cases, was finally affirmed in *Thompson* v. *Dominy* (14 M. & W., 403)

In this case the Indorsee of a Bill of Lading sued the master in his own name

Parke, B. (afterwards Lord Wensleydale) admitted that "the Bill of Lading was transferable from hand to hand: and it passed the property of the goods with it: but he never heard of an action being brought on it, and he thought such an action quite untenable. By the Law of England a *chose-in-action* is not transferable: by the custom of merchants it is transferable in one instance, a Bill of Exchange: but there is no authority to show that a Bill of Lading is transferable under such a custom, so as to enable the party to bring an action on it . . . . . I never heard it argued that a contract was transferable, except by the Law Merchant"

It is remarkable that this decision was in flat contradiction to a case decided in the very same Court only a few months previously

In *Franklin* v. *Neate* (13 M. & W., 481), a person had pawned a watch as security for a loan. He then sold the watch to another person, and transferred the pawn-ticket to him. The transferee sued the pawnbroker for the watch on paying off the loan and charges. The pawnbroker refused to deliver the watch to any person but the original owner, alleging that a *chose-in-action* was not transferable

But the Court unanimously held that the transferee had acquired the legal property in the watch: and had the right to sue for it in his own name, as he had acquired the same rights as the original owner

It would be impossible to imagine two cases in which the circumstances were more perfectly on all fours and in which the decisions were in more flagrant contradiction than in those of *Franklin* v. *Neate* and *Thompson* v. *Dominy*, decided by the very same Judges within a very few months of each other

The shipmaster and the pawnbroker were exactly in the same position: they were the mere Bailees of the goods, and not the proprietors. Pawnbrokers' tickets and Bills of Lading are instruments of exactly the same nature: they are both *documents of title*: and not *choses-in-action*. The Court allowed that in each case the property in the goods passed directly from the original owner to the transferee. In *Franklin* v. *Neate* the Court held that the Transferee had the same rights as the original owner, and might sue the pawnbroker: though he had not promised to pay any transferee. In *Thompson* v. *Dominy*, the same Court held that the Indorsee had exactly the same rights as the original owner: but could not sue the master for his own goods, which he had expressly undertaken to deliver to the Indorsee. In the one case the Court held that the legal owner could sue: in the other case the Court held that the legal owner could not sue!

This dogma of the Court, which by their own showing was erroneous, being thus in hopeless conflict with the interests of the mercantile community, had to be remedied by Act of Parliament, as in the former case of Promissory Notes. This was done by the Bills of Lading Amendment Act, Statute 1858, c. 4.

Formerly Policies of Insurance had been transferable like all *choses-in-action*. But an Act had been passed to prevent this. To remedy this the Policies of Insurance Act, 1867, was passed to allow Assignees of Policies of Insurance to sue in their own names

Mr. Bunyon remarks that this Act may be esteemed a first step to making *choses-in-action* assignable at Law. The last step came much sooner, perhaps, than Mr. Bunyon expected

## *Appointment of a* **Royal Commission** *to prepare a* **Digest** *of the* **Law of England**

**30.** In 1867 the Government appointed a Royal Commission to prepare a Digest of the Law of England, in anticipation of the contemplated fusion of Law and Equity which was subsequently enacted by the Supreme Court of Judicature Act of 1873, which came into operation on the 1st of November, 1875

Among the Commissioners were Lord Chancellor Cranworth, Lord Westbury, Lord Cairns, Lord Hatherley, Lord Selborne, and Lord Penzance, to mention those only of judicial rank. The Commissioners determined to prepare digests of three branches of the law as specimens of a Digest of the whole Law. They invited members of the bar to offer themselves to prepare these specimen digests under their supervision. One of the branches selected was Bills of Exchange, Bank Notes, &c.

This digest was not to be a mere register of decisions. It was expressly intended to be a declaration of the Law on all points: and, consequently it necessarily involved the strict investigation and final settlement of all disputed points, contradictory doctrines, and conflicting cases, as well as the exclusion of all erroneous cases

In the early editions of my *Theory and Practice of Banking* I had stated the law regarding the transfer of *choses-in-action* in accordance with the doctrines then held by all the judges, and laid down in all text-books of mercantile law: as I naturally presumed that the judges knew their own law

But upon entering into this competition, I began to reflect that the current doctrines regarding the transfer of *choses-in-action* were contradictory

While it was strenuously maintained that *choses-in-action* were absolutely inalienable at Common Law, so as to enable the Transferee to sue the Debtor in his own name, it was perfectly acknowledged that in some cases it was quite legal to transfer a Debt, and that the Transferee might sue the original Debtor

It was perfectly acknowledged that if the Creditor, the Debtor and the Transferee met together, the Creditor might, with the Debtor's consent, transfer his Right of action to the Transferee.

The Debtor might then agree to pay the Transferee instead of his primary Creditor. When this was done, a valid contract was created between the Debtor and the Transferee which cancelled and extinguished the two preceding contracts: that between the Creditor and the Debtor: and that between the Creditor and his Transferee: and the Transferee might then sue the Debtor: because there was now a privity of contract between them

This is what, as has been shown in the preceding section, is termed a Novation: and this form of Novation was acknowledged in a whole series of cases to be perfectly valid

But though it was admitted that a Debt might be sold and transferred orally to a specific transferee with whom the Debtor entered personally into a contract: it was strenuously maintained that it was contrary to law to issue a written Obligation payable to order, or to bearer, or to any unspecified and indefinite assignee: and it was alleged that no contract could be created between the original Debtor, or Obligor, and such indefinite bearer, or assignee, giving the latter an action against the Debtor

This, of course, involved the general question—What is the Common Law of England respecting the transfer of Obligations oral and written? Or—What is the Common Law of England with respect to written Obligations which the Obligor himself had created transferable?

As the very purpose of the Digest was to declare the Law on this point, it became necessary to trace this doctrine through the whole series of Reports to their earliest sources

The result I arrived at is contained in the preceding paragraphs, and need not be repeated here. I proved by a series of text-writers and cases, beginning about 1250 and ending in 1800—a period of 550 years—that the dogma held by modern judges that *choses-in-action* cannot be made transferable at Common Law, with the sole exception of Bills of Exchange, had not the slightest foundation in fact: that it was entirely due to the narrow dogmatism of Lord Kenyon: and that it had no earlier date than 1800!

Having laid these investigations before the commission whose Chairman was Lord Cranworth, who had enunciated the doctrine that it was not to be tolerated by the Law either of Scotland or England that any person should issue floating Rights of action against himself, I was unanimously selected to prepare the Digest of the Law of Bills of Exchange, &c., *i.e.*, the Law of Credit

My selection by the Commissioners was in effect equivalent to the judgment of the House of Lords in my favor : because the Commissioners included all the Law Lords except one : and if they approved of my written arguments in their capacity of Commissioners : they must have done the same if I had had the opportunity of addressing them in their capacity of Law Lords

I was invested with the duty of reducing into systematic and scientific order the whole chaotic and contradictory mass of cases on the subject, both at Law and in Equity. I was instructed not to pay any regard to any decision of any Court or Judge, nor to any text-book : but that it was my duty to declare the law on every point in the subject. This, therefore, involved the duty of examining, and approving, confirming, modifying, or reversing all the decisions of all the Courts of Equity and Law on the subject

I stated the rules of the Common Law relating to the transfer of *choses-in-action* in these words—

"At Common Law a Creditor cannot transfer his Debt, or Right of action, to a third person without the consent of the Debtor, so as to enable the Transferee to sue the Debtor in his own name

"But wherever the Debtor assents to the transfer of the Debt: the assignment of it by the Creditor is irrevocable: and the Transferee may sue the Debtor in his own name"

I set aside the whole of Lord Holt's decisions relating to Promissory Notes, which, with one exception, had been accepted as Law for 160 years, as erroneous : and appended this note—

"The legality of Promissory Notes is sometimes supposed to rest solely on the Statute of Anne : but there can be no doubt whatever that the series of decisions, which were the cause of the Act being passed, are erroneous : and that the Act was superfluous"

And multitudes of other cases

In 1870, the Commissioners discontinued the work on the

Digest: and so my Digest was never published under their authority: but I introduced these doctrines, as having the private approval of the Commissioners, into my *Principles of Economical Philosophy*, published in 1872

### *The Case of* **Crouch *v.* The Credit Foncier** *of* **England**

**31.** This work had only been published a very short time when a very awkward incident occurred

The Credit Foncier of England issued an Obligation which they termed a Debenture, by which they promised to pay the bearer the sum of £100 on the 1st of May, 1872, or upon any earlier day upon which the bond should be entitled to be paid off, or redeemed, according to certain conditions printed on it

The Bond further promised to bear interest at 8 per cent., payable half yearly, on the 1st of November and the 1st of May in each year, from the 1st of November, 1869, to the 1st of May, 1872: unless it should be drawn for payment before the 1st May, 1872: in which case interest was to cease from the day it was drawn

One Macken bought ten of these debentures. In July, 1869, his house was broken into, and they were stolen. The Bond in question was drawn for payment on the 1st November, 1870. Macken having received substituted bonds, on giving notice of his loss to the Company, and an indemnity, received payment of the Debenture

At the end of 1871 the Plaintiff bought the Debenture from a person who afterwards disappeared: and sued the Company for payment of it

It was not disputed that he gave value for the bond without notice: and at the trial before Bramwell, B., he gained the verdict

The questions before the Court in Banc were—

1. Whether the Debenture was a Negotiable Instrument
2. Whether, if it were so, it was not overdue: and so had lost the attribute of "Currency" or Negotiability

The judgment of the Queen's Bench was delivered by Blackburn, J., in the absence of the Chief Justice

He began by admitting that such instruments had been for some time treated as Negotiable

He then said (L.R., 8 Q.B., 374)—" The general rule is not disputed, that a *chose-in-action* cannot be transferred at law at all . . . . .

The first question, therefore, is whether this instrument is a Promissory Note. It is under Seal, and therefore is, *primâ facie*, a Covenant and not a Promise : and it is quite clear that a Covenant to pay money is not Negotiable by the custom of merchants [we have already shown the direct contrary of this] . . . . .

" There is no case in the books where a Bill of Exchange made under seal has been sued upon [the direct contrary of this is the fact : for hundreds of years all Bills of Exchange were under seal]

" The negotiability of Promissory Notes depends in part at least, upon the Statute 3 and 4 Anne, c. 9 : and it seems to have been the opinion of Lord Justice Wood in *re General Estates Co.*, and of Malins, V. C., in *re Imperial Land Co. of Marseilles*, that inasmuch as that Act enacts that Promissory Notes in writing . . . . . it follows that a Corporation fixing its seal to a written promise must be considered as signing the promise, not as covenanting under seal to fulfil it : and so the Statute says by implication that, what would at Common Law be their covenant to pay, is their Promise to pay. But although intimating their opinion, neither of the learned persons referred to gave any decision on the point, as it was not necessary for the purpose of the cases before them. Neither is it necessary for us to decide the point, as for reasons which will presently be given, the Instrument in question, even if under hand, could not be a Promissory Note : but we wish to point out that in *Glyn* v. *Baker* the form of the East India Bond was that the East India Company acknowledged to have received from W. G. Sibley, £100, which the Company promised to pay to Sibley, his executors, or assigns by indorsement. It was therefore in form a Promissory Note for Value received, payable to order, and had it been signed as such by an agent of the East India Company, would have been negotiable. But it was a bond under the seal of the East India Company, and Le Blanc, J., says—'It is clear that no action could have been brought on this bond but by Sibley, the Obligee, or in his name : or if he died, in the name of his executors'

"The alarm occasioned by this decision was so great that within a month afterwards an Act (51 Geo. III. c. 64) was passed to make East India Bonds negotiable like Promissory Notes. It seems not to have occurred to any one that it could be said that this was already done by virtue of the Statute of Anne, the promise in writing being signed by the East India Company's seal.

"This seems a strong authority for saying that instruments under the seal of a body corporate are not exceptions from the general rule laid down by Byles on Bills that at Common Law Bills of Exchange and Promissory Notes, being simple contracts, cannot be under seal, at least, so as to retain their negotiable qualities

"But it is not necessary to decide in the present case whether an instrument under the seal of a Corporation can be a Promissory Note : for the contract of the Credit Foncier is not merely to pay the money but also to cause a portion of the bonds to be drawn in the stipulated manner : and any one entitled to sue on the contract contained in the instrument would be entitled to sue for damages if the company did not fairly give him his chance of having his bond drawn according to the stipulated conditions. And it is obvious that such a contract as that cannot be a Promissory Note . . . . . .

"He is also obliged to contend that they would give a Right of action in his own name to any holder, though the general law would give no such Right of action to the holders. There is no decision or authority that it is competent to a party to create by his own act a transferable Right of action on a contract. [There are an unbroken series of decisions for 550 years to this effect]. It is enough to refer to *Dixon* v. *Bovill* and *Thompson* v. *Dominy* as authorities [which they are not] that he cannot irrespective of custom so create it . . . . . .

"We have already intimated an opinion that it is beyond the competency of the parties to a contract to confer on the assignee of that contract a Right to sue in his own name"

The Court then made the rule absolute to enter the verdict for the defendants: but gave the right to appeal. No appeal, however, was made: and if it had not been for a subsequent case which took place soon afterwards, this decision might have done boundless mischief in perpetuating error . ,

It will be seen by referring to the preceding section that every one of the statements in this decision, both of law and fact, are perfectly erroneous: and are in direct contradiction to the principles which I had established in my Digest, with the approval of the Law Digest Commissioners

### *The Case of* **Goodwin** *v.* **Robarts**

**32.** At length this great quarrel was brought to a final settlement and determination in the case of *Goodwin* v. *Robarts* (L.R., 10 Exch., 337), beyond all comparison the most important Mercantile case in modern times: or indeed of any time

The Russian Government being about to raise a loan on Bonds, appointed Messrs. Rothschild their agents

Messrs. Rothschild issued Scrip for these £100 bonds, as a receipt for £20 paid on account of the Bonds: and as payment of the successive instalments at the times specified, the "Bearer" was to receive the definitive bonds

In February, 1874, the plaintiff purchased £200 of the Russian scrip, on which the instalments were fully paid up in advance: and left it in the hands of his broker: who improperly and contrary to good faith, pledged it with the defendants as security for a loan

The broker became bankrupt, and the defendants sold the scrip in the usual way of business, and in ignorance of the plaintiff's title

It was proved that such scrip for loans to foreign governments, entitling the bearers thereof to bonds, had been well known to, and largely dealt in by bankers, money dealers, and members of the Stock Exchanges, English and Foreign, for above fifty years: and such persons had, during that period, bought and sold such Scrip, and lent money on it: and dealt with it in every way as a Negotiable Instrument, transferable by delivery

The question was whether such Scrip was in point of law Negotiable : so that the defendants, the innocent holders for value, might retain the proceeds from the true owners of it

This case, it will be observed, extended the question of Negotiable Instruments : because all Instruments hitherto found to be negotiable, had been actual Obligations to pay money : but this was only a Promise to deliver an Obligation to pay money

The Court of Exchequer unhesitatingly gave judgment for the defendants

The case was taken by appeal to the Court of Exchequer Chamber, and the unanimous judgment of the Court was given by Lord Chief Justice Cockburn on the last day of its existence, July 7, 1875

In the course of the argument before the Court, Lord Holt's cases, so often alluded to, and which I had set aside in my Digest, had been cited, and the Lord Chief Justice spoke of them in terms of the strongest condemnation, and said that they were a blot upon our judicial history

The Lord Chief Justice having reviewed all the arguments against the negotiability of the scrip, especially the doctrines expressed in the preceding case of *Crouch* v. *The Credit Foncier of England*, that it is not competent for any one to create floating Rights of action against himself, said—

"Having given the fullest consideration to this argument, we are of opinion that it cannot prevail. It is founded on the view that the Law Merchant thus referred to is fixed and stereotyped, and incapable of being expanded and enlarged so as to meet the wants and requirements of trade in the varying circumstances of commerce. It is true that the Law Merchant is sometimes spoken of as a fixed body of law, forming part of the Common Law, and, as it were, coeval with it. But as a matter of legal history, this view is altogether incorrect"

The Lord Chief Justice then proceeded to speak of Bills of Exchange and Promissory Notes, and said that the common notion that Promissory Notes were not used in England till the end of the seventeenth century was a mistake. "Mr. MacLeod shows that Promissory Notes payable to bearer, or to a man and his assigns, were known in the time of Edward IV."

After referring to several of the cases before recited, he said—"Thus far the practice of merchants, traders, and others of treating Promissory Notes, whether payable to order, or to bearer, had received the sanction of the Courts, but Holt having become Chief Justice, a somewhat unseemly conflict arose between him and the merchants as to the Negotiability of Promissory Notes, whether payable to order or to bearer: the Chief Justice taking what must now be admitted to have been a narrow minded view of the matter, setting his face strongly against the negotiability of these instruments, contrary as we are told by authority, to the opinion of Westminster Hall: and in a series of successive cases persisting in holding them not to be negotiable by indorsement, or delivery. The inconvenience of trade arising therefrom led to the passing of the Statute of 3 and 4 Anne, c. 9, whereby Promissory Notes were made capable of being assigned by indorsement, or made payable to bearer, and such assignment was thus rendered valid, beyond dispute or difficulty

"It is obvious from the preamble of the statute, which recites that—'*it had been held* that such Notes were not within the custom of merchants,' that these decisions were not acceptable to the profession, or to the country. Nor can there be much doubt that by the usage prevalent among merchants, these Notes had been treated as securities negotiable by the customary method of assignment, as much as Bills of Exchange properly so called. The Statute of Anne may indeed, practically speaking, be looked upon as a Declaratory Statute, confirming the decisions prior to the time of Lord Holt"

The Lord Chief Justice then, having reviewed several other cases, came to the case of *Crouch* v. *The Credit Foncier of England*, in his own Court, but decided in his absence. He expressed disapproval of the reasons given for the judgment, that it was not competent for the company to make instruments negotiable which were not negotiable at Common Law: though he said that the judgment might be supported on the ground that the usage was not proved to be general

"We cannot concur in thinking that if proof of general usage had been established, it would have been a sufficient ground for refusing to give effect to it, that it did not form part of what is called the ancient Law Merchant

"If we could see our way to the conclusion that in holding the scrip in question to pass by delivery, and to be available to bearer, we were giving effect to a usage incompatible either with the Common Law, or with the Law Merchant, as incorporated into and embodied in it, our decision would be a very different one from that which we are about to pronounce. But so far from this being the case, we are, on the contrary, in our opinion, only acting on the established principle of that law in giving legal effect to a usage now become universal, to treat this form of security, being, on the face of it, expressly made transferable to bearer, as the representative of money, and, as such, being made to bearer, as assignable by delivery"

The Court then affirmed the judgment of the Court of Exchequer: and thus all the Courts of Common Law held that the Scrip was a Negotiable Instrument. This judgment was afterwards affirmed by the House of Lords

The Lord Chief Justice had the Paper I had prepared for the Law Digest Competition before him, and in the course of the judgment did me the very high honor to refer to it as follows—

"We find it stated in a Law Tract by Mr. MacLeod entitled 'Specimen of a Digest of the Law of Bills of Exchange,' printed, we believe, as a Report to the Government: but which from its research and ability, deserves to be produced in a form calculated to ensure a wider circulation, &c."

I had already published the results arrived at in my *Principles of Economical Philosophy* in 1872: this judgment confirmed them in every particular: and they are repeated in my *Theory and Practice of Banking:* and in this work: so that I have done whatever has been in my power to fulfil the suggestion of the Lord Chief Justice

### *Choses-in-action made Transferable by Statute, without the consent of the Debtor*

**33.** The Courts of Law never had the courage to adopt the suggestion of Ashhurst and Buller, that they should drop the formality of requiring the Transferée of a Debt to sue in the name of the Transferor: and permit him to sue in his name; in which they showed that they did not know their own power: because such was an integral part of the Law Merchant, which is an integral part of the Common Law. But this was done by the Supreme Court of Judicature Act of 1873. By sect. 25, § 6, of that Act, it is enacted—

"Any absolute assignment in writing, under the hand of the assignor (not purporting to be by way of charge only) of any Debt, or other legal *chose-in-action*, of which express notice in writing shall have been given to the Debtor, Trustee, or other person from whom the assignor would have been entitled to receive or claim, such Debt, *chose-in-action*, shall be, and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed) to pass and transfer the legal right to such Debt or *chose-in-action*, from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the consent of the assignor: provided always, that if the Debtor, Trustee, or other person liable in respect of such Debt, or *chose-in-action*, shall have had notice that such assignment is disputed by the assignor, or any one claiming under him, or if any other opposing or conflicting claims to such Debt, or *chose-in-action*, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court of Justice, under and in conformity with, the provisions of the Acts for the relief of Trustees"

It will be seen that this clause confers the Right upon Creditors to transfer their Debts, or *choses-in-action*, without the consent of the Debtor: and consequently, if the holder of an obligation, not made transferable by the express will of the obligor, gives notice to the Debtor in terms of this clause, he can maintain an action upon it

But it still leaves untouched the case of an Obligation created transferable with the express consent of the Obligor, which is transferred without a written notice to the Obligor, and in such cases, which form the vast majority, the rules of the Common Law still apply

If there should be any doubt on such cases, which we have established there never was, it is provided for in § II. of the same section, which says—

"Generally, in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of the Common Law with reference to the same matter, the rules of Equity shall prevail"

Thus the Mercantile Law of England is now assimilated to that of Europe

## Section IV

## *On the* Extinction *of* Obligations

### *On the* Limits *of* Credit

**34.** We have now to consider the various methods by which Obligations are extinguished. Credit being the Right to demand some person to pay or do something: and Debt the Duty of that person to pay or do something: of course when the Debtor has paid or done the thing he is bound to do he has fulfilled and discharged his duty: and therefore the Right of the Creditor is satisfied and extinguished: and thus the Obligation is annihilated and extinguished

It has been shown over and over again that Credit is the name of a Species of Property, Commodity, or Merchandise, of the same nature as, but inferior in degree to, Money: that it fulfils exactly the same function as Money as a Medium of Exchange and Circulation. It is a Property, Commodity, or Merchandise cumulative to Money: and is in all its effects on prices and production exactly equivalent to an equal sum of Money

Credit is in fact to Money what Steam is to Water: and like that power, while its use within proper limits is one of the most beneficial inventions ever devised by the ingenuity of man, its misuse by unskilful and unscrupulous persons has produced the most fearful calamities. Credit, like Steam, has its limits: and we have now to investigate the proper limits of Credit: and to explain the various methods by which it is extinguished

Credit no doubt is of the same nature as Money: being the Right or Title to a future payment. But there is this difference between them, that there is no time limited in which the holder of Money shall demand a satisfaction for it: nor is it limited to any particular satisfaction. He may keep it as long as he pleases himself: or he may transmit to his descendants: and they may receive a satisfaction at any time they please for the services done by their ancestor

But Credit is always created with the express intention of being, or of being capable of being, extinguished at a certain short definite time: at least Mercantile Credit is, of which alone we are treating here. It is unextinguished Credit which produces those terrible monetary cataclysms which scatter ruin and misery among nations. It is chiefly by the creation of excessive Credit that over-production is brought about: which causes those catastrophes called Commercial Crises: and it is the inability of Credit shops to extinguish the Credit they have created—commonly called the failure of Banks—which is the cause of the most frightful social calamities of modern times

The true limits of Credit may be seen by the meaning of the word. Because all Credit is the promise to pay or do something in future: and that something, whatever it is: is the Value of the promise or Credit. That something need not necessarily be Money: it may be anything else: it may be any other chattel: or it may be a promise to do something

The Credits, however, which are the subject of this work are always promises to pay Money: and it is just on this point that literary Economists are utterly at fault. Because a Bill, or Note, is an Obligation to pay money, many uninformed writers suppose that they must always be paid in Money or Bank Notes: and therefore that the issues of Credit must always have a fixed and definite relation to the quantity of Money in a country: or in mathematical language are a *definite* function of it: now it is true that Credit must always bear a relation to the Money in the country; but it is not a *fixed* relation: it depends to a very great extent indeed on the organisation of the system of Credit: hence as the quantity of Credit to Money varies according to the different methods in which Credit is organised, we may say, if we may coin the term, that Credit is a *contingent* function of Money.

To show how extremely ignorant writers are of the actual organisation of the modern system of Credit, we may quote a sentence from Colonel Torrens, who was one of the influential sect who procured the enactment of the Bank Charter Act of 1844. He says[1]—"A Bill of Exchange may also pass from purchasers to vendors many times a day: but no one of the successive transactions of which it is the medium can be finally closed until the last recipient has received in Coin or Bank Notes the amount it represents." A statement also which appears in Mill

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[1] *The Principles and Practical Operation of Sir Robert Peel's Act of* 1844 *explained and defended*, p. 79

No doubt 200 years ago, as far as we are aware, the vast majority of bills were paid in Money or Bank Notes: but that has long ceased to be the case. At the present day probably not one bill in 100,000 is ever paid in Money or Bank Notes: but by other methods which we have now to describe

Those who imagine that Bills and Notes at the present day are always paid in Money or Bank Notes have as much idea of the truth as those who know nothing of steam navigation beyond the little Comet of four horse power which paddled down the Clyde in 1812, have of the triple expansion engines of the *Campania*: or as those who know nothing of a locomotive beyond Stephenson's Rocket have of the last new locomotive on the London and North Western Railway. The organisation and expansion of the System of Credit has developed *pari passu* with that of the steam engine

The only real difficulty in the case, as has been frequently observed, is for lay readers and writers to understand that a Right of action, a Promise to pay, which is a Credit, or a Debt, is itself independent exchangeable Property or Merchandise, or a Chattel, quite distinct from the Money promised itself, and that it circulates in commerce by itself, exactly like Money

But of course the Value of the promise or Right of action is the thing itself: and consequently if the thing itself is not forthcoming, the Right of action has lost its Value. This consideration at once shows the Limit of Credit. Assuming the Credit to be, what is its best known form in this country, the Right to demand Money, it is quite clear that as long as a person has in his possession sufficient Money, or *what is held to be Equivalent to Money*, to discharge his Debt when it becomes due, the Credit has not been excessive

In this section we shall only consider solid Credit: by which we mean Credit which is redeemed at maturity: reserving the abuses of excessive Credit, and its consequences and remedies to a future chapter

The futile nature of the speculations of lay writers on this subject consists in the fact, that by the highly organised system of modern Credit, it is only an infinitesimal portion of Bills that are ever paid in Money at all : but they are paid in the **Equivalents** to Money

The institution of Banks and Bankers who create Currency by means of their Credit, either in the form of Deposits or Notes, has enlarged the Limits of Credit at least a thousand fold : but yet the principle of the Limit remains the same. Credit always has to be redeemed : and if this can be done the Credit has been sound. Hence Credit is never excessive, whatever its absolute amount may be, as long as it always returns into itself

## *On the* Extinction *of* Obligations

**35.** We have now to consider the various methods by which Obligations are extinguished. Credit being the Right to demand something to be **paid** or **done** : and the Debt being the **Duty** to **pay** or **do** that something : the Payment, or the Performance of the thing, fulfils, discharges, and extinguishes the Duty : as well as the Right. And thus the Obligation is absolutely annihilated and extinguished

Commercial Credit in this country is always expressed to be payable in Money : and it is often supposed that Bills of Exchange are always paid in Money, or Bank Notes. But as has been shown in the preceding paragraph, that is a vital error

There are other methods besides payment in Money by which Obligations are extinguished. And in this country the amount of Bills which are paid in Money is absolutely infinitesimal compared to those which are paid in other ways

There are four different methods by which Obligations may be extinguished : these are—

1. By **Acceptilation** : or Release
2. By **Payment** in **Money**
3. By **Novation** : Renewal or Transfer
4. By **Compensation** : or Set-off

### *On* **Acceptilation**: *ἀθώωσις* : *ἀκκεπτιλατίων* : *or* **Release**

**36.** We have already described how the *Obligatio verbis* and *litteris:* or the oral and written Obligations were created

When the Debtor came to repay the loan the proceedings were reversed. He brought the money to his Creditor, and said something of this sort to him—

"Quod ego tibi promisi, habesne acceptum ?"

"*Have you received what I promised you ?*"

To which the Creditor replied—

"Habes, acceptumque tuli"

"*I have, and have entered it as received*"

In this case the Debtor made an entry of Money paid in his ledger, termed **Expensilatio** : and the Creditor made a correlative entry of Money received in his ledger : termed **Acceptilatio**

These entries of **Expensilatio** and **Acceptilatio**, when once formally made in their respective ledgers by the parties, were final and conclusive, and could not be questioned

All Contracts or Obligations created by the mutual consent of the parties may be extinguished, cancelled, dissolved, or annihilated by the same mutual consent of the parties by which they were created

As Gaius says[1]—"Omnia quæ jure contrahuntur contrario jure pereunt"

"*All formal contracts are destroyed by a reverse process*"

Consequently, if for any reason whatever the Creditor chose to release the Debtor from his Debt without the actual payment of money, it was done by the solemn form of **Acceptilatio**

The Debtor went through the legal form of question : and the Creditor went through the legal form of answer : and then made the formal entry of **Acceptilatio** in his ledger : it was then a valid and final **Release** : and it could not be questioned or disputed

So, at present, if a Creditor gives his Debtor a formal written receipt for money due : it is a valid and final release of the Debt.

We shall hereafter give some examples of Acceptilation which may surprise some of our readers

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[1] *Digest*, 50, 17, 100

For **Acceptilation**, see Gaius, III., 169-175; Instit. Just., III., 29; Theophilus, III., 29; Digest, XLVI., 4; Basilica, XXVI., 9

### *The* **Release** *of a* **Debt** *is in all cases Equivalent to a* **Gift** *or* **Payment** *in* **Money**

**37.** Euler, as we have seen above, says that if a person has nothing, and owes 50 crowns, his Property is 50 crowns *less* than nothing. His property is (— 50) crowns: *i.e.*, he is under the Duty to pay 50 crowns, and has nothing to pay them with

He then says that if any person made the Debtor a present of 50 crowns to pay his Debt with, he would be 50 crowns richer than he was before: though his property would then be 0

Euler is right so far as he goes: but he has only stated one-half of the case. Because the same result may be attained in another way

As the same result follows, whoever gives him the 50 crowns, we may suppose that his Creditor makes him a gift of 50 crowns. The Debtor then may give his Creditor back his 50 crowns: and so he discharges his Debt. The Debtor is now 50 crowns richer than he was before: and his property is now 0

Now if Money be positive, +, the Gift of Money is + × +, which equals +. But there is another combination of signs which gives +: and that is — × —; and there is another way of arriving at this result

Suppose that instead of the double operation of the Creditor giving his Debtor 50 crowns: and then receiving them back in discharge of his Debt: he simply **Releases** the Debtor from the Debt. Then the Debtor would be 50 crowns richer than before: and his property would be 0

Now a Debt is —: and taking away, or Releasing, is also —: hence Releasing a Debt is — × —: hence Releasing a Debt is absolutely equivalent to making a Gift of Money: that is, — × — = + × + in Economics: as it does in every other branch of science, Mathematical and Physical

This example shews that the Release of a Debt is in all cases whatever, equivalent to the Gift or Payment of Money: a principle of immense importance in Commerce : and the application of which may surprise some readers

So Paulus says[1]—" Si quis obligatione liberatus est, potest videri cepisse "

And Basil. II., 3, 115—"ὁ ἐλευθερούμενος ἐνοχῆς δοκεῖ τι εἰληφέναι "

" *He who is Released from an Obligation has gained* "

So also—" Per accepti quoque lationem egens debitor etiam eam pecuniam quâ liberatus est, cepisse videtur"

" *Even an insolvent debtor being freed by a Release, has gained the amount of what he is released from* "

So Pothier[2]—' A **Release** is a **Donation** "

So Ortolan says[3]—" The **Release** from a **Debt** is always classed as a Donation in Roman Law "

So Von Savigny[4]—" A simple Contract, or the **Release** of a **Debt** may be the subject of a **Donation** "

Also[5]—" The increase of Wealth may result from . . . . a Credit given to the Debtor, or the Release of a Debt "

" Every Release of a Debt enriches the Debtor. The amount of the Donation is always equal to that of the Debt, even though the Debtor is insolvent. Although the Release from a Debt destined never to be paid seems a thing of no consequence, the increase of property does not the less exist. In effect not only does Property represent a quantity always indeterminate : but its total Value may also be either **Positive** or **Negative** [Negative Property is the Inverse of a Right, *i.e.*, a Debt, or a Duty]. If then Property is reduced to a Negative Value, the diminution of Minus is in Law a change identical with the increase of Plus for a Positive Value " (That is $- \times - = + \times +$)

" The Release of a Debt[6] always constitutes a Gift equal to the amount of the Debt, even though the Debtor is insolvent "

So the Release of a Debt to a Debtor may be a Legacy[7]

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[1] *Digest*, 50, 17, 115 [2] *Traité des Obligations*

[3] *Explication Historique des Inst. Just.*, Liv. II., tit. 7, § 543, 557

[4] *Traité de droit Romain*, Liv. II., ch. 3, § 142

[5] *Ibid*, § 155

[6] *Traité de droit Romain*, Liv. II., ch. 3, § 166 [7] *Digest*, 34, 3, 3

### *Application of the Principles of* **Algebra** *and* **Mercantile Law** *to* **Commerce**

**38.** It has now to be shown how the Algebraical doctrine that — × — = + × +: and its Legal equivalent that the Release of a Debt is in all cases equivalent to a payment in Money: are applied in Commerce

Suppose that I owe £100 to a banker: in how many ways can I pay him?

1. I may pay him in actual Money: that is + × +

2. If I happen to possess £100 in his Notes: I may tender him his own Notes: or if I have an account with him: I may give him a Cheque on my account: that is in either case I Release him from his Debt to me: that is — × —

That is, Releasing the banker from his Debt to me is Paying my Debt to him

3. I may pay him £50 in Money: and £50 in his own Notes: or by Cheque on my account

Paying him in Money is + × +: tendering him his own Notes: or giving him a Cheque on my account: is — × —: and the combined effect of the two is to discharge and extinguish my Debt of £100

Thus I may pay a Debt to my banker entirely in Money: or entirely in his own Notes, or by Cheque: or partly in Money and partly by Notes or Cheque: and the effect of these several modes of payment is absolutely identical

Thus it is seen that the doctrine that taking away a Negative Quantity is absolutely equivalent to adding a Positive Quantity is absolutely true in all branches of science

That is, in all sciences whatever — × — = + × +: and in Mercantile Algebra it is to be interpreted thus—"*The* **Release** *of a* **Debt** *is in all cases Equivalent to a* **Payment** *in* **Money**"

### *The* **Release** *of a* **Debt** *may be held to Extinguish an Obligation in Three different ways*

**39.** There are three different methods in which the Release of a Debt may be considered to extinguish an Obligation

1. **First Method**—As the Obligation was created by the mutual consent of the parties: so it may be cancelled and extinguished by the same mutual consent which called it into existence

Now as we have seen that, by the general principles of the Theory of Signs, to **Create** an Obligation is denoted by

$$+\left\{\begin{matrix}+\ \pounds100\\ -\ \pounds100\end{matrix}\right\}$$

So to Cancel, Extinguish, or **Annihilate** an Obligation is denoted by $-\left\{\begin{matrix}+\ \pounds100\\ -\ \pounds100\end{matrix}\right\}$

Now let us observe the effect of the Negative Sign on each of the parties to the Obligation

The Creditor's property becomes $-(+\ \pounds100)$

But $-(+\ \pounds100) = -\ \pounds100$

That is the Creditor has *lost* £100

The Debtor's property becomes $-(-\ \pounds100)$

But $-(-\ \pounds100) = +\ \pounds100$

That is, the Debtor has *gained* £100

Which shows that to **Cancel** or **Release** a **Debt** is exactly equivalent to making a **Gift** of **Money**

2. **Second Method**—As the Creditor's Right of action is simply a piece of Merchandise: Goods and Chattels: or a Commodity: it may be the subject of a donation or gift, exactly like any other Commodity

The Creditor may present his Right of action as a donation or gift to the Debtor himself

Then the Debtor has the Right to demand $(+\ \pounds100)$ from himself: and also the Duty to pay $(-\ \pounds100)$ to himself

Then his property will be $+\ \pounds100 - \pounds100$

These two Quantities cancel and extinguish each other like $+a$, and $-a$, on the same side of equation. They vanish together: the Right is not in abeyance: it is absolutely extinguished. The $(+\ \pounds100)$ ceases to exist as well as the $(-\ \pounds100)$: and thus the Obligation is absolutely extinguished

The Creditor has lost £100, and the Debtor has gained £100.

Thus, if a person makes another a gift of £100 : and also Releases him from a Debt of £100 : the donee has received a gift of £200

When Sir Joshua Reynolds died he held a bond of Burke's for £2,000. By his will he Released Burke from his bond of £2,000 : and besides that he bequeathed him £2,000 in Money. Consequently Reynolds bequeathed £4,000 to Burke

3. **Third Method**—There is still a third method by which it can be explained

When a Debtor is presented with a Right of action against himself he fulfils two *personæ*, or characters : he is Creditor to himself and also Debtor to himself

In his *persona* of Creditor he presents his Right of action to himself in his *persona* of Debtor. In his *persona* of Debtor he pays the Right of action to himself in his *persona* of Creditor. Hence the Duty is fulfilled and discharged, just as much as if he had paid it to another individual

Thus the Obligation is not in abeyance : it is cancelled and extinguished

### *When* + £100 **Cancels** *and* **Extinguishes** — £100 : *and when it does not*

**40.** It must, however, be carefully observed that (+ £100) and (— £100) in the same person do not always, and in all cases, cancel and extinguish each other in Economics

A person's property may be (+ £100) and (— £100), and therefore for practical purposes, be equal to 0 : and yet these two Quantities will not cancel and extinguish each other in Economics

It is only when the Right to demand £100 from *himself* : and the Duty to pay £100 to *himself* unite : that both Quantities vanish : and the Contract or the Obligation is extinguished

Suppose that a person has £100 in a banker's Notes : and at the same time owes £100 to some *other* person

Then his property will be (+ £100) and (— £100) : and in substance will = 0

But in this case the (+ £100) will not cancel the (— £100): and the (+ £100) is not extinguished as an Economic Quantity.

The reason of this is obvious: because his Right of action against A is no fulfilment of his Duty to pay B

The Debtor may pay away the £100 in Notes: and leave his own Debt unpaid

Suppose that two bankers each hold £100 of the other's Notes. Then so far as regards these Notes the property of each banker is (+ £100) and (— £100): and in substance = 0

But in this case the (+ £100) and the (— £100) held by each banker do not cancel each other: because each banker may pay the Notes of the other in commerce: and therefore there are £200 of Economic Quantities in existence

Each banker has the positive absolute Right to demand £100 which is actual property: but he is only under the *contingent* Duty to pay £100, if demanded

If, however, they exchange Notes, each banker will then have the Right to demand £100 from *himself*: and the Duty to pay £100 to *himself*

Then each of the Obligations is simultaneously extinguished: because each banker has performed his **Duty** of paying the other by releasing him from his Debt

Thus the £200 of Economic Quantities vanish out of existence.

Hence it is only when the Right and the Duty emanate from the same person: and are again revested in the same person from whom they emanated that the (+ £100) and the (— £100) cancel each other: and the Obligation is extinguished

## *On* Payment *in* Money

**41.** The preceding considerations will explain how a Payment in Money extinguishes an Obligation: which very few persons have ever thought of

Suppose that a person possesses £100: and owes a Debt of £30: then his property will be (+ £100) and (— £30): that is, he possesses £100: but coupled with the Duty to pay £30 at some given time

His Creditor's Right to demand is (+ £30)

When the Creditor demands payment of his Debt, he brings his Right of action to the Debtor, who gives him £30 in Money in exchange for it: that is, the Debtor buys up the Right of action against himself

The Debtor's property is then £70, and also (+ £30) and (— £30): that is, £70 in Money: and also the Right to demand £30 from himself and the Duty to pay £30 to himself

The (+ £30) and the (— £30) cancel and extinguish each other by either of the methods described above: the Obligation is extinguished: and the Debtor's property is now £70

This transaction is therefore a Sale, or an Exchange

Thus the Obligation, or Contract, was originally created by the Sale, or Exchange, of the *Mutuum*: and it is extinguished by the Sale or Exchange, of Payment

Thus an Obligation is created by one Exchange: and is extinguished by another Exchange

### *On* Confusio: *μῖξις*: Merger

**42.** When a Right of action against a person comes in any way into his own possession, so that he has both the *Right to demand* from himself, and the *Duty to pay* to himself, it is termed **Confusio**, or *Concursus Debiti et Crediti*, in Roman Law: *μῖξις* in Greek Law: and **Merger** in ours

It was universally agreed that the *Confusio: μῖξις*: or *Concursus debiti et crediti* of a simple Debt extinguished the Obligation: but how it does so has given rise to much subtle speculation: and for centuries puzzled Jurists and Divines. The Divines alleged that a Right once created could never be destroyed: and the Jurists said that the Right being transferred to the Debtor he could not sue himself: and, therefore, that the Obligation is extinguished

This explanation, however, is not satisfactory: because in many cases a man may sue himself: he may fulfil two characters, or *personæ*: and as one character, or *persona*, he may sue himself as another character, or *persona*

Moreover this would only show that the Right is suspended:

or in abeyance: and not that it is extinguished: and many eminent Jurists seem to take this view[1]

Moreover, in several cases a *Confusio* or *Concursus debiti et crediti* occurs, in which the Right and the Duty unite in the same person and are not extinguished: but may afterwards be separated[2]

The considerations, however, which we have presented, will give a complete solution of the case

When one party is a Creditor and another party is a Debtor: they are two characters, or *personæ*

If, then, the Right of action comes into the possession of the Debtor: he now fulfils two characters, or *personæ*. The two *personæ* exist though they are now united in one individual: just the same as they did when in separate individuals. And these two *personæ* may deal with each other in exactly the same way as when they were separate parties. They may agree to extinguish the Obligation by either of the three methods described in § 39. The Obligation then is not suspended: or in abeyance: it is absolutely extinguished and annihilated

Thus this perplexity which was held to be insoluble by Jurists for centuries is now removed: and the Theory of Credit is now complete

### *On* Novation: μετάθεσις: Renewal *or* Transfer

**43.** A Contract, or Obligation, may also be extinguished by substituting a new Obligation for it. The new Obligation pays, discharges, and extinguishes the preceding one: and the extinction of the preceding Obligation is the consideration for the new one

This is termed *Novatio* in Roman Law: μετάθεσις in Greek Law: and **Renewal** or **Transfer** by us

This *Novatio* may take place in two ways—

1. The Debtor may give his Creditor a new Obligation of his own in payment of the former one, which the Creditor accepts in lieu and substitution of the former one. The new Obligation

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[1] *Stair's Institutes of the Law of Scotland*

[2] *Erskine's Institutes of the Law of Scotland. Bell's Dictionary of the Law of Scotland, Art.*, Confusion

is the Price or Payment of the preceding one : and the extinction of the preceding one is the consideration for the new one

As for example when a banker agrees to renew a Promissory Note for a customer : the new Note is payment of and extinguishes the former one : and no Debt arises until the new Note becomes due

Or when a Creditor has a Debt due to him payable on demand : and he agrees to take a Promissory Note from his Debtor payable in three months, the Note pays and extinguishes the Debt payable on demand : the extinction of the Debt payable on demand is the consideration for the Note : and no Debt, or Duty to pay, arises until the Note becomes due

This form of *Novatio* is called **Renewal** by us

2. The Debtor may in payment of his own Debt, transfer to his Creditor a Debt due to him by some one else. If the Creditor agrees to receive this Debt due to his Debtor in payment of the Debt to himself : the new Obligation due from the Debtor's Debtor pays and extinguishes the Obligation due from the Debtor himself

But the Creditor may retain his own Debtor as surety in case of the new Debtor's failure to pay

A familiar instance of this is where a Debtor pays his Creditor in Bank Notes. He transfers to his Creditor a Debt due from the banker in payment of his own Debt. If the Creditor agrees to receive the Notes in payment of the Debt the Debtor is discharged : and the Creditor agrees to take the banker as his new Debtor

So when a Debtor gives his Creditor a Bill of Exchange upon another person in payment of his own Debt

So if a Creditor and Debtor are customers of the same bank, the Debtor may give his Creditor a Cheque on his account in payment of a Debt. If the Creditor accepts the Cheque he pays it into his own account : the banker transfers the Credit from the Debtor's account to the Creditor's : as soon as this is done the Debtor's Debt is paid just the same as if it had been by Money : the Debt of the banker to the Transferor is extinguished : he becomes Debtor to the Transferee : the Transferor is released from his Debt to the Transferee who accepts the banker as his new Debtor

This form of *Novatio* is termed **Transfer**

This Novation : or *μετάθεσις*: is equivalent to a payment in Money

When the Debtor's Debtor agreed to the transfer of the Debt he was called **Delegatus**, and the transaction was termed a **Delegatio.**

So Ulpian says[1]—"Verbum exactæ pecuniæ non solum ad Solutionem referendum est, sed etiam ad Delegationem"

So Basil., 25, 5, 56—"ῥῆμα τῶν ἀπαιτηθέντων χρημάτων οὐ μόνον εἰς καταβολὴν ἀναφέρεσθαι δεῖ, ἀλλα καὶ ἐς ἔκταξιν"

"*The word payment includes not only Payment in Money, but also the payment of a Credit*"

So also—"Solvit et qui reum Delegat"

"*He pays who transfers another Debtor*"

And—"Delegare est vice suâ alium dare Creditori, vel cui jusserit"

"*To Delegate is to give another Debtor instead of one's self to the Creditor, or to his order*"

This operation, when effected by persons living in different places, is known in commerce as "An Exchange." A person living in one country may be Debtor to one person living in another country. and Creditor, to another. He may pay his Creditor by sending him an order on his Debtor : and thus the Obligation is extinguished. The mass of reciprocal transactions of this nature which take place between different countries is called the Foreign Exchanges : a subject which we shall have to examine further in a future chapter

For **Novation** and **Delegation** see Gaius, II., 38, 39. Institut. Just., III., 29, 3. Digest, XLVI., 2. Codex, VIII., 41. Basilica, XXV., 5, 56

### *On* Compensation : ἀντεξέτασις : ἀντέλλογος or ἀντελόγισμος :
### Set Off

**44.** If two persons are mutually indebted to the same amount at the same time : each may claim that the Debt which he has against the other shall be taken in Payment of the Debt he owes. Each, therefore, is Money, or Legal Tender with respect to the other

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[1] *Digest*, 50, 16, 187

This is termed **Compensatio.** Thus Modestinus says[1]—"Compensatio est Debiti et Crediti inter se contributio"

Basilica, 24, 10, 1—"ἀντεξέτασις ἐστιν χρέους καὶ δανείσματος ἀντέλλογος"

"*Compensation is the mutual Set Off of Debts and Credits*"

If the Debts are equal each is payment in full for the other: they are weighed and Set Off against each other

If the Debts are unequal, equal amounts compensate each other: and the balance only is due in Money

Simple as this may appear, it took a long time both in Roman and English Law, to arrive at it

In early Roman Law Compensation was not allowed as a matter of right: each Creditor had to bring an action against the other

Afterwards in the time of Gaius,[2] Compensation was not held to be payment: but the Prætor, or Equity Judge, allowed the counter debt to be pleaded as a defence to the action of Debt

But the absurdity of this became apparent. Pomponius says[3]—"Ideo compensatio est necessaria, quia interest nostra potius non solvere quam solutum repetere"

"*Therefore Compensation is necessary, because it is our interest rather not to pay than to recover back what we have paid*"

Marcus Aurelius allowed Compensation as a matter of right: and thus mutual Debts became Money, or Legal Tender, with respect to each other

So it is said[4]—"Si constat pecuniam invicem deberi, ipso jure pro soluto compensationem haberi opertet"

"*If the mutual Debts are proved Compensation is to be held as payment as a matter of right*"

So also—"Compensationes debitorum ipso jure fient"

Basil., 24, 10, 21—"οἱ τῶν χρεῶν συμψηφισμοὶ ἰδίῳ δικαίῳ γίνονται"

"*The Compensation of Debts is a legal right*"

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[1] *Digest*, 16, 2, 1

[2] *Instit.* IV., 61-68

[3] *Digest*, 16, 2, 3

[4] *Codex*, 4, 31, 4, 14

Bankers, *Argentarii*, however, were always obliged to allow Compensation for counter-claims

**For Compensation,** see Gaius, IV., 61-68 ; Instit. Just., IV., 6, 30, 39 ; Digest, 16, 2 ; Codex, IV., 31, 4 ; Basilica, 24, 10

The rule of the Common Law of England was the same as the early law of Rome. If two persons were equally indebted, each had to bring his action against the other

Equity, however, which adopted the Law of the Pandects and the Basilica, always allowed Compensation, or Set off

In many cases the rule of Common Law worked great injustice. If a person and a bankrupt were mutually indebted, the person was obliged to pay his debt in full, and only received a dividend on his own from the bankrupt's estate. To remedy this the Act, Statute 4, Anne, c. 17, allowed set off in cases of bankruptcy : and this was extended by Statutes 2, Geo. II., c. 22, s. 12 : and 8, Geo. II., c. 24, s. 4

But now by the Supreme Court of Judicature Act, which enacts that in all cases in which the rules of Equity conflict with the rules of Law, those of Equity shall prevail, Compensation is allowed in all cases. Hence, if two persons are mutually indebted each Debt is Money, or Legal Tender, for the other

Both Debts, however, must have actually accrued due at the time, to be subjects of Compensation

Ulpian says[1]—"Quod in diem debetur non compensabitur antequam dies venit"

Basil. 26, 10, 7—*τὸ ὑπὸ ἡμέραν πρὸ τῆς ἡμέρας οὐ συμψηφίζεται.*"

"*A Debt which is not yet due cannot be Compensated*"

As, for instance, if a banker holds a customer's acceptance not yet due, he cannot retain a balance on his customer's account to meet it: because his customer's Debt does not come into existence until the acceptance becomes due

So if a banker holds a merchant's acceptance not yet due : and the merchant holds notes of the banker : the banker must pay his notes on demand : he cannot set off the merchant's acceptance : because the merchant's Debt has not yet come into existence

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[1] *Digest*, 16, 2, 17

So for a similar reason, if two merchants hold each other's acceptances, one of which is due and the other not yet due, they cannot be compensated

If a Debt which was not yet due was set off against a Debt which had become due, it was called *Deductio*[1]

The following are examples of **Compensation,** or Set off

1. Suppose that two bankers issue Notes, and each has got possession of £100 in the Notes of the other. Then each banker is two *personæ* : he is Creditor, and has a Right of action (+ £100) against the other : and each is Debtor, or has the Duty to pay (— £100) his own Notes to the other

So long as each banker holds the notes of the other, there are, of course, £200 of Rights of action, Credits, or Debts in existence

But when they exchange notes, each tenders to the other the Debt he has against him, in payment of the Debt due to him : that is *Compensation*

Each banker still continues to be two *personæ :* but instead of each being Debtor to the other : each is now Debtor to himself

It is a case of double *Confusio.* As Creditor he demands payment from himself as Debtor: and as Debtor he pays to himself as Creditor the Debt he has against himself. Each Debtor has now performed his duty of paying his Debt : and so each Obligation is extinguished : and the £200 cease to exist as Economic Quantities

2. Suppose a banker holds a merchant's acceptance for £100, which has become due : suppose that the merchant holds £100 of the banker's notes : or has an account with him. When the banker demands payment of his acceptance from the merchant, the merchant tenders him his own notes in payment : or the banker simply writes off the amount of the acceptance from his customer's account : and as before, both Obligations are extinguished

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[1] *Gaius,* IV., 57

3. Suppose that two merchants have issued equal acceptances each payable on the same day. Suppose also that the acceptance of each merchant comes into the possession of the other: on the day of payment each merchant tenders to the other his own acceptance in payment of the acceptance due to him: and thus as before, both Obligations are extinguished

This form of Compensation was formerly very extensively used on the Continent before bankers discounted mercantile bills.

At numerous centres of commerce, Lyons, Antwerp, Nuremberg, Hamburg, and many others, there were held great fairs every three months. The Continental merchants, instead of making their bills payable at their own houses, where they must have kept large amounts of cash to meet them made them payable only at these fairs. In the meantime these bills circulated all over the country like money, and got covered with indorsements.

On a certain day of the fair the merchants met together and presented their acceptances to each other: and if their respective claims were equal they were balanced and paid by being exchanged against each other, by Compensation. By this means an enormous commerce was carried on and liquidated without any specie at all. Boisguillebert, one of the morning stars of modern Economics, says[1] that at the fair of Lyons transactions to the amount of 80,000,000 (livres ?) were settled, without the use of a single coin.

We thus see what a prodigious extension of Credit and Commerce is effected by the modern highly organised system whose juridical principles were elaborated by the Roman Jurists. We showed that in the early stages of society the first use of Money was to represent the balances which arose from the unequal exchanges of products. But modern commerce is carried on, not by Money, but by Credit: and except in small retail transactions, Money is only used now to pay and discharge unequal balances of Debts

We have now developed the complete Theory of Credit: and explained the great Juridical and Mathematical principles upon which it is based. And we have now shown that the principles of Commerce may be reduced to the strictest scientific demonstration.

[1] *Dissertation sur la Nature des Richesses*, ch. II.

In two following chapters we shall show how the great scientific principles of Credit are practically exemplified in the mechanism of Commerce and the great business of Banking

## *On the* **Ratio** *of* **Money** *to* **Credit**

**45.** Credit, then, being clearly understood to be the **Name** of a certain species of Commodity, or Merchandise, of the same nature as Money, but of an inferior order, it is of considerable practical importance to discover the Ratio which Credit bears to Money in this country. The difficulties which prevent private inquiries are very great: and the opportunities which are presented by Parliamentary inquiries into Commercial Crises are very rarely made use of for any but their immediate purpose

In the report, however, of the Committee of the House of Commons on the crisis of 1857 there is given an interesting statement by Mr. Slater, of the great house of Morrison, Dillon and Co., which may furnish us with a clue to answer this question

Having analysed the operations of his house for 1856, he gave in the following table as showing the proportion in which each million of receipts and payments were made in Money and various forms of Credit:—

RECEIPTS

| | £ | £ |
|---|---|---|
| In Bankers' Drafts and Mercantile Bills payable after date | 533,596 | |
| Cheques payable on demand | 357,715 | |
| Country Bankers' Notes | 9,627 | |
| | | 900,938 |
| Bank of England Notes | 68,554 | |
| Gold | 28,089 | |
| Silver and Copper | 1,486 | |
| Post Office Orders | 933 | |
| | | 99,062 |
| | | £1,000,000 |

PAYMENTS

| | £ | £ |
|---|---|---|
| Bills of Exchange | 302,674 | |
| Cheques on London Bankers | 663,672 | |
| | | 966,346 |
| Bank of England Notes | 22,743 | |
| Gold | 9,427 | |
| Silver and Copper | 1,484 | |
| | | 33,654 |
| | | £1,000,000 |

Here it is shown that in this great house, which may be reasonably supposed to represent commerce in general, specie did not enter into their transactions for little more than 2 per cent.

A similar investigation, instituted by some bankers, resulted in showing that specie only entered into their operations to the amount of 4 per thousand, or ·0025 per cent.

These investigations furnish a clue by which we may obtain a rough estimate of the Ratio of Credit to Money

It is usually considered that the quantity of coin, gold and silver, in circulation in this country may be estimated at not far from £120,000,000 : and if we take as a moderate estimate that the quantity of Credit is 50 times the quantity of Money, as the above figures indicate, it would appear that the quantity of Credit or Debts of all kinds in the country is about £6,000,000,000.

This, of course, is only a rough approximate estimate : but it is sufficient to show the enormous magnitude of this species of Property, or Merchandise, in this country, and its supreme importance in modern times. This Credit produces exactly the same effects : and affects Prices exactly as so much Gold : Prices are estimated by the aggregate of Money and Credit : which constitutes the Circulating Medium, or Currency : and it is through the excessive creation of this species of Property that all Commercial Crises are brought about : and through the mismanagement of these, and bad Banking legislation, that Commercial Crises develope into Monetary Panics

Moreover, when we grasp the conception that all this mass of Credit or Circulating Debts, and other securities of a similar nature, is so much exchangeable Property, or Merchandise, which can be bought and sold, donated, pledged, and exported and imported between country and country exactly like any material commodities, it compels a thorough re-investigation of all the Fundamental Concepts of Economics : and shows how utterly erroneous is the doctrine that **Labor** and **Materiality** are necessary to **Value** : and that all **Wealth** is the product of **Land, Labor and Capital**

## *Two* **Branches** *of the* **System** *of* **Credit**

**46.** Having now developed the complete Juridical and Mathematical Theory of Credit—that is, explained how Credits or

Debts are Created, Transferred, Sold, and Exchanged: and how they are Extinguished: we shall in two chapters hereafter exhibit the actual mechanism of the great **System of Credit**

The System of Credit is divided into two branches—Mercantile Credit and Banking Credit

In Mercantile Credit, merchants buy or circulate commodities by means of Credits, or Debts, payable at a certain fixed date: and these Credits may circulate in commerce and effect exchanges exactly like Money until they are paid off and extinguished, and Mercantile Debts are always extinguished when they become due.

In Banking Credit, bankers buy Gold and Mercantile Debts payable at a future time, by creating and issuing Credits, or Debts, of their own payable on demand. Thus they turn Mercantile Debts into ready Money. Banking Credits are created payable on demand: and must be paid if so demanded. But they are not intended or expected to be extinguished. On the contrary they are created with the hope and expectation that they will not be demanded and extinguished. There is no necessity that Banking Credits should ever be extinguished: in fact if Banking Credits were extinguished as soon as they are created, the business of Banking could not exist. Banking can only exist so long as payment of Banking Credits is only demanded to a very small extent. Banking Credit may be transferred from one account to another in the same bank, and from one bank to another, to the end of time. It is quite possible that much of the Banking Credit which exists at the present day may have been created by the very first banks founded in this country: and there is no necessary reason why it should not continue till the end of time. Money is a very expensive machine to purchase and keep up: but Banking Credits cost nothing to create, and they may endure for ever

These two departments of Credit are perfectly distinct: they are governed by different principles: and they are, in some respects, antagonistic to each other. The same persons should never carry on both branches of business: that is great bankers should not be merchants: and great merchants should not be bankers: because the Duty of bankers is often contrary to the Interests of merchants

## CHAPTER IV.

## ON THE SELF-CONTRADICTIONS OF J. B. SAY AND J. S. MILL ON CREDIT

**1.** In the preceding chapter we have explained the Juridical and Mathematical principles of the great System of Credit: and have pointed out the errors which lay writers, literary and mathematical, have fallen into from a want of knowledge of the principles of Mercantile Law. But though these writers committed errors, they did not flatly contradict themselves

We should only be too glad now to exhibit the application of these principles in practical business: but we are compelled to delay our progress in order to show the incredible self-contradictions of Say and Mill on the subject of Credit. It is, as we conceive, an essential duty of such a work as this, not only to explain the true principles of the subject, but to point out and refute all the current errors which have obtained a wide hold on popular opinion: and the mischief done by Say and Mill is infinitely too serious to be passed over

Jurists of all nations include Rights of action, such as Credits or Debts, under the terms *Pecunia*, *Res*, *Bona*, *Merx*: χρήματα, πράγματα, πλοῦτος, ἀγαθά, οἶκος, οὐσία, &c.: goods, chattels, merchandise, commodities: and writers on Economics, seeing that Credits in the form of Bank Notes, Bills of Exchange, &c., perform exactly the same functions in circulating commodities as Money, class Credit under the title of Capital, without giving any very nice definition of Credit or of Capital. But no one had worked out the Theory of Credit: or had demonstrated its true limits

Every one knows, however, that in recent times the most unsparing ridicule has been poured on the expression that "Credit is Capital." J. B. Say made the wonderful discovery that the whole world, himself included, was under a delusion: and that when they said that "Credit is Capital" they were such dolts as to maintain that the same thing can be in two places at once!

### Turgot *first* Erred *on* Credit

**2.** Turgot was the first person to introduce error on the subject of Credit. When at College in 1749, and only 22 years of age, he began to reflect on John Law's system of Paper Money, which had produced such a frightful catastrophe in France 29 years before. In a letter addressed to the Abbé de Cicé[1] he used an expression which has been the keynote of a fallacy which, developed by Say and Mill, has been sedulously propagated by numerous writers, and has done boundless mischief in the subject.

He says—"In a word all Credit is a Loan: and has an essential relation to its repayment"

He we see the gross confusion of ideas on the subject of Credit at the present day. In this passage we see that Turgot considers Credit to be an **Operation.** This is Turgot's first vital error. Credit is a **Quantity.** We have shown that Credit is the present Right to a Future Payment: and how can the Right to a future payment be an Operation? It would be just as rational to say that a guinea or a bill of exchange is a loan. Turgot says that every Credit implies a future payment: and for that reason it has Value: and it may be bought and sold like any material chattel, like Money: but that does not make a **Right** a **Transfer.**

Turgot's remark, therefore, that every Credit implies a future payment had nothing to do with Law's Paper Money. Law understood the principles of Credit better than any man of his day: and so long as he confined himself to Credit, he was the first financier of his age. His Bank was magnificently successful as we have shown elsewhere.[2] It was not his system of Credit which produced the catastrophe but his system of **Paper Money:** he saw that the powers of Credit though immense, were limited: and his plan was to create **Paper Money** beyond the limits of Credit, which was not redeemable in Money, any more than Money itself. His Paper Money was a new and independent standard just like gold itself: but which he fondly dreamed could circulate independently at the same Value as gold. Hence Turgot's remark has no application to the question

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[1] *Œuvres de Turgot*, I., p. 33

[2] *Dictionary of Political Economy*, Art. Banking in France.

## *On the* **Self-Contradiction** *of* **J. B. Say** *on the subject of* **Credit.**

**3.** 1. J. B. Say, following up the erroneous notion of Turgot on the nature of Credit, invented the phrase which so many unthinking writers have echoed from that day to this—that those who consider Credit to be Capital maintain *that the same thing can be in two places at once ! !*

We shall show that all this confusion has arisen from Say never having thought out carefully the fundamental concepts of Economics : and from his self-contradiction on almost every one of them. Say's name formerly stood so high in the subject, and his sneers have been chorussed by such a multitude of writers in France and England : and the matter itself is of such transcendent importance, that we are compelled to give some space to a thorough investigation of his views. We must, therefore, inquire into his notions of *Wealth*, *Value*, *Capital* and *Credit*

### *On Say's* **Definition** *of* **Wealth**

2. It is very commonly supposed that Say was the first Economist to introduce immaterial products into Economics. This however we have shown is a great error, because the author of the *Eryxias* proved more than 2,200 years ago that immaterial Quantities are Wealth. Smith expressly enumerates "the acquired and useful abilities of the inhabitants" as part of the Fixed Capital of the nation. The Roman Jurists were the first to declare that Abstract Rights and Rights of action are Wealth : in which they have been followed by all the Jurists in the world. Smith expressly includes Paper Credit under the term Circulating Capital : thus recognising the existence of three species of Wealth : exactly as the ancients had done. Say does exactly the same : and also enumerates several other kinds of Incorporeal Wealth

Say defines Wealth thus[1]—"The exclusive possession which, in the midst of a numerous society, clearly distinguishes the property of each person, causes this sort of thing to be the only one to which in common language the name of Wealth is given [not, as the Economists held, unless it is Exchangeable] . . . . . . From this circumstance not only these things which are capable of satisfying directly the wants of man such as nature and society have made him, but the things which can only satisfy them indirectly, such as Money, **Instruments of Credit** (*Titres de Créance*), the **Funds**, &c.

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[1] *Cours*, Pt. I., ch. 1

Again, after speaking of things of Value, such as the earth, metals, money, coin, stuffs, &c., he says[1]—"If one gives also the name of Wealth to the **Funds, Commercial Paper** (*Effets de Commerce*), it is clear," &c.

Again he says[2]—"You see that Wealth does not depend on the kind of things, nor upon their physical nature, but on a **Moral Quality,** which each one calls their **Value.** Value alone transforms a thing into Wealth, in the sense in which this word is synonymous with *biens* or property. The Wealth which resides in anything, whether it be land, a horse, or a Bill of Exchange, is proportional to its Value. When we speak of things being Wealth, we do not speak of other qualities which they can have: we speak only of their Value"

Thus we have shown conclusively that Say admits that the principle of Wealth resides exclusively in *Exchangeability:* in accordance with the unanimous doctrine of ancient writers for 1,300 years: and he expressly enumerates *Titres de Créance* and *Effets de Commerce,* that is Negotiable Paper, or **Credit,** as Wealth

### *On Say's Definition of* **Value**

3. We shall find exactly the same inconsistencies in Say's notions of Value as has been the ruin of so much modern Economics. He over and over again says that Value is something External to an object, for which it can be exchanged: and then he repeatedly speaks of Intrinsic Value: without the least idea that these are contradictory conceptions

To show this we can only cite a few passages out of many. Thus, he says[3]—"The second circumstance to be remarked relating to the Value of things is the impossibility to appreciate its absolute magnitude. It is never anything but *comparative.* When I say that a house which I point out is worth 50 thousand francs, I affirm nothing but that the Value of this house is equal to the sum of 50 thousand francs : but what is the Value of this sum ? It is not a Value existing by itself, and without a comparison. The Value of a franc, of 50 thousand francs, is composed of all the things which one can buy for these different sums. If one can in giving them in exchange, have a greater quantity of corn, sugar, &c., they have a greater Value relatively to these other things : if one can have less, they have less Value : because the Value of a sum of money, like all other Values, is measured by the quantity of things which one can get in exchange.

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[1] *Traité*, Bk. I., ch. 1

[2] *Cours*, Pt. I., ch. 1

[3] *Cours*, Pt. I., ch. 1

"The idea of Value resembles the idea of distance. We cannot speak of the distance of an object without making mention of another object from which the first finds itself at a certain distance. In the same way the idea of the Value of an object always supposes a relation with the Value of something else." That is to say, it is manifestly just as absurd to speak of Intrinsic Distance as of Intrinsic Value

Again he says in the same chapter—"These same principles show that gold, silver, and money are not sought for themselves, and are only of the Value of what they can buy"

We need not overload our pages with more quotations. These are sufficient to show that Say fully admits that the **Value** of a thing is what it will exchange for, or purchase : if it will exchange for, or purchase, more, it has greater Value : if it will exchange for, or purchase, less, it has less Value : and if it will exchange for nothing it has no Value

Moreover, Say repeatedly acknowledges that Value is a **Quality of the Mind** : and that it is the Mind of man only which confers Value. Thus he says[1]—"Nevertheless, value is purely a **Moral Quality** : and which appears to depend upon the fugitive and changeable will of men"

So also—"In order that a Value may be Wealth, this Value must be recognised not by the possessor only, but by every other person"

Here Say admits that Value does not depend upon a single mind, but upon more than one. He goes too far in saying that it must be recognised by every one else. *Two* minds are necessary and sufficient to constitute Value

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[1] *Cours, Considérations Générales*

So also he says[1]—"The Value which men give to things . . . It is always true that if men attach Value to a thing"

Now we have shown in these passages, and we might have cited multitudes of others, if it had been necessary, that Say clearly admits that Value is not an absolute Quality of a thing: that it is external to itself: that the Value of a thing is anything else for which it can be exchanged, or which it will purchase: that Value originates in the Mind of man

Now after these admissions, what can be more contradictory, or absurd, than for Say repeatedly to speak of **Intrinsic Value**?

### *On Say's Definition of* **Capital**

4. We have now to lay before our readers the extraordinary self-contradictions of Say on Capital

### *Say asserts that* **Immaterial** *and* **Incorporeal Quantities** *form* **No** *part of* **National Wealth**

He says[2]—"The nature of Capitals and the nature of their functions show us very important truths. One of them is, that Productive Capitals do not consist in fictitious and conventional values (?) but only in real and intrinsic (!) values, which their possessors judge convenient to devote to production. In fact, one cannot buy productive services except with material objects having an intrinsic (!) value. [What! not with Credit?] We cannot amass as Capital, and transmit to another person anything but value incorporated in material objects." [What amazing nonsense. Cannot we acquire property in the Funds or in Shares of great mercantile companies as Capital, and transmit them to our descendants: or sell them in the market? Are not Credits or Debts sold by scores of millions every day?]

Again[3]—"From the nature of immaterial products, it follows that we cannot accumulate them, and that they do not serve to

[1] *Traité*, p. 57

[2] *Cours.*, Pt. i., ch. 10

[3] *Traité*, Bk. I., ch. 13

augment the national Capital. [Cannot a man accumulate professional knowledge and make a large income thereby? and cannot he transmit this accumulated knowledge to pupils?] A nation in which there is found a crowd of musicians, of priests, of employés, may be a nation very much amused, well taught, and admirably well administered: but that is all. Its capital does not receive from the labors of these working men any direct increase, because their products are consumed immediately they are created"

Again[1]—"All transmissible Capital is composed of Material Products, for nothing can pass from hand to hand but visible matter." Perhaps some things cannot pass from hand to hand: but they can pass from person to person

### *Say maintains that* Immaterial *and* Incorporeal Capital *is part of the* National Wealth

He says[2]—"Since it has been proved that Immaterial Property, that talents, and acquired personal qualities form an integral portion of social Wealth"

Again he says[3]—"We must include among Capitals many *biens* which have a Value, although they are not material. The Practice of a lawyer, or a notary: the Goodwill of a shop: the Reputation of a sign: the Title of a periodical work: are incontestably Wealth: we may sell them and buy them: and make them the subject of a contract: and they are Capitals: because they are the fruits of accumulated labor. A lawyer by the wisdom of his advice, by his assiduity, and other qualities, has made the public conceive a good opinion of his chambers: this good opinion gives him the right to larger fees: this increase of profit is the revenue of a **Capital** called *reputation*: and this Capital is the fruit of the labor and care which the lawyer has taken during many years"

He also says in a note—"There are Capitals which are not incorporated in material things, as the practice of a notary, or a commercial enterprise: but this portion of **Capital** is a very real Value"

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[1] *Definitions at the end of the Traité*

[2] *Cours, Considérations Générales*

[3] *Cours*, Pt. IV., ch. 5

Again—"The only immaterial **Capitals** which I know of are the Practice: the Goodwill of a shop: a Profession: of a newspaper: one can alienate, one can sell, a **Capital** of this species." We may add that Trade Secrets are a very valuable and important species of immaterial Capital

So again[1]—"Without a classification of things possessed embraces them all in making a valuation of the Wealth of a nation, we are never certain of making them complete

"Our property comprising our Wealth, whatever it is, comprises our Natural Qualities, as well as our social riches"

And after going through several descriptions of personal talents, he says—"What I have said is sufficient, I think, to convince you that Industrial faculties are Property of the same kind as all others: and it is only in regarding them as equal to all others that we obtain all the social advantages attached to the Right of Property. For the same reason this kind of Property, although it is difficult to be expressed in figures, forms nevertheless, part of the general Wealth of a nation. A nation where industrial capacities are more numerous and more eminent than elsewhere is a more wealthy nation"

Is it possible to exhibit a more melancholy picture of self-contradictions in a scientific (?) work?

### *Say admits that* **Instruments of Credit** *are* **Capital**

5. We shall now show that Say explicitly declares that **Credit** is **Capital**

He says[2]—"This is why from the moment that this Value resides in objects employed in a productive operation I name it **Capital**, whatever be the objects in which it resides"

Again[3]—"These Capital Values may consist of the Public Funds, Commercial Paper, coffee berries, or any other merchandise which will sell"

Again[4]—"The form under which **Capital** Value presents itself makes no difference." He then enters into the subject more minutely[5]—"A Bill on demand, or a Bill of Exchange, are obligations contracted to pay, or cause to be paid, a sum either at another time or at another place"

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[1] *Cours*, *Considérations Générales*

[2] *Cours*, Pt. IV., p. 131

[3] *Cours*, Pt. I., ch. 5

[4] *Cours*, Pt. I., p. 135

[5] *Traité*, Bk. I., ch. 30

"The Right attached to this order (although its Value is not demandable at the time, or the place, where one is) give it nevertheless, a **Present Value**, more or less great. Thus a Bill for 100 francs, payable at Paris in two months, may be negotiated or sold for the price of 99 francs: a Bill for a similar sum payable at Marseilles at the same time, will be worth at Paris perhaps 98 francs

"Hence, a Bill of Exchange, by virtue of its future value, has a **Present Value**: it can be employed instead of Money in every species of purchase, so that the greater part of the great commercial transactions are effected by Bills of Exchange"

Again he says[1]—"There is, nevertheless, an important observation to make relating to the representative signs of Money. It is that they are capable of rendering a service exactly similar to the Money they represent. If any one signs an Obligation by which he binds himself to deliver, at a fixed period, a cloak, made in such a fashion, this promise, although it is in some sort a sign, or pledge, of the possession of the cloak, cannot take its place: because a sheet of paper does not protect from cold, like a cloak: while the signs which represent Money, can replace it completely, and render all the services it can. In fact, the qualities which make a bag of Money serve us in exchanges can be found in a Bill. These qualities, you will remember, are—

"First in the Value it has. One can give a Bill exactly the same Value as to a sum of Money: in giving the bearer the right to receive the sum, so as to take away from him all doubt as to the payment, it is that a Bank Note can circulate ten years in preserving a value of a thousand francs without being paid, only because one believes that he can have the amount when he pleases"

We have thus laid before our readers the explicit admission of Say that an Instrument of Credit may be of the Value of Money, and perform all the functions of Money

He further says[2]—"Every private person can sign an ordinary

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[1] *Cours*, Pt. III., div. 3, ch. 27

[2] *Cours*, Pt. III., ch. 18

Bill, and give it in payment of merchandise, provided that the seller consents to receive it as if it were Money. This seller in his turn, if he is the buyer of other merchandise, can give the same Bill in payment. The second acquirer can pass it to a third with the same object. There is an Obligation which circulates : it serves him who wishes to buy : it fills the office of a sum of Money

"The Value of a sign depends on the Value of the thing signified : but in order that this value may be exactly as great as that of the thing of which it is the pledge, the payment of the Bill must not only be certain, but demandable on the instant. . . . .

"If Bills of Credit could replace completely metallic Money, it is evident that a Bank of circulation veritably augments the sum of National Wealth : because in this case the metallic Wealth becoming superfluous as an agent of circulation, and, nevertheless, preserving its own value, becomes disposable, and can serve other purposes. But how does this substitution take place ? What are its limits ? What classes of society make their profit of *the* **New Funds** *added to the* **Capital** *of the nation ?*

"According as a Bank issues its Notes, and the public consent to receive them on the same footing as metallic Money, the number of monetary units increases . . . . .

"We must not, however, think that the Value withdrawn from the sum of Money, and added to the sum of **Capital** merchandise, equals the sum of Notes issued. These only represent Money when they can always be paid on demand : and for that the bank is obliged to keep in its coffers, and consequently to withdraw from circulation, a certain sum of Money. If, suppose, it issues 100 millions of Notes, it will withdraw perhaps 40 millions in specie, which it will put in reserve to meet the payments which may be demanded of it. Therefore if it adds to the quantity of Money in circulation 100 millions, and if it withdraws 40 millions from circulation, it is as if it added only 60

"We now wish to learn what class of society enjoys the use of this **New Capital**"

Say goes on to explain how this **New Capital** is employed, and who reaps the profit on it

Now we have shown our readers by the most unimpeachable evidence, that is by extracts from himself, that Say maintains that **Credit** is **Capital** : and yet perhaps they will be surprised to hear that Say is the writer who originated the sneer that those who say that Credit may be used as Capital maintain that the same thing may be in two places at once !

### *Say maintains that those who say that* **Credit** *is* **Capital** *affirm that the* **Same Thing** *may be in* **Two Places** *at once*

6. We shall now place before our readers the passages in which Say maintains that those who say that Credit may be used as Capital are such puzzle-headed dolts as to affirm that the same thing may be in two places at once

He says[1]—" It is sometimes thought that Credit multiplies Capital. This error, which is found frequently reproduced in a crowd of works, of which some are written professedly on Political Economy [Say's own work, for example] supposes an absolute ignorance of the nature and functions of Capitals. [Say, then, himself has shown this ignorance.] A Capital is always a very real Value fixed in a matter : [Say has himself given several examples of Capital which are not fixed in a matter] because immaterial products are not susceptible of accumulation : [Say himself has given several examples to the contrary] *and a material product cannot be in two places at once, and serve two persons at the same time.* [Who said it could ?] The constructions, the machines, the provisions, the merchandise which comprise my Capital may be the amount of the Values I have borrowed : in this case I carry on my industry with a Capital which does not belong to me (!), and which I hire (!) : but certainly the Capital which I employ is not employed by another. He who lends it to me is debarred from the power of working it elsewhere. A hundred persons can merit the same confidence as I : but this Credit, this confidence merited, does not multiply the sum of disposable Capitals : it only causes less Capital to be kept without use "

He also says[2]—" The manufacturer who buys on Credit raw materials, borrows from the seller the value of this merchandise for the time of the Credit which he gives him: and this Value which he lends him is furnished in merchandise, which are material values (! !)

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[1] *Traité*, Bk. II., ch. 8

[2] *Cours*, Pt. I., ch. 9

"Hence, if one can only borrow and lend Capital in material objects, what becomes of the maxim that Credit multiplies Capitals? My Credit can cause me to dispose of a material value which a capitalist has placed in reserve: but if he lends it to me, he remains deprived of it: he cannot lend it to another person at the same time: the manufacturer who uses this value, who consumes it, to accomplish a productive operation, prevents another manufacturer employing it as his own"

The reader has only to compare these extracts drawn from Say himself to be amazed at their contradictions

In the first set Say himself admits that Instruments of Credit are Wealth: and he admits that if a Bank can maintain in circulation a greater amount of Notes than it keeps gold in reserve, it augments by so much the Capital of the country

In the second set he considers the Credit to be the **Material goods lent**: and then he asks with a triumphant sneer, how can the same material goods be in two places at once ! !

We need not say a word more

### *On the* Self-Contradiction *of* Mill *on* Credit

**4.** 1. Turgot was the writer who, as we have shown above, started the erroneous notion that Credit is the **Transfer** of something

J. B. Say further extended the error by supposing that Credit is the Goods which are "lent": and then he ridiculed the doctrine that "Credit is Capital" by sneeringly remarking that the same thing cannot be in two places at once !

These two sentences have been repeated by a multitude of unthinking writers in France and England from that day to this.

The number of writers who have reiterated these absurdities is so great that we have no room to notice them: especially as we have shown the misconceptions and self-contradictions of Turgot and Say who originated these errors

J. S. Mill, as is well known, has repeated this silly sneer, and we have now to examine whether Mill is any more consistent with himself than Say

### *Mill admits that* **Personal Credit** *is* **Wealth**

2. We have first to show that Mill admits that **Personal Credit** is **Wealth**

In accordance with the unanimous doctrine of ancient writers for 1,300 years, Mill says[1]—

"**Everything**, therefore, forms part of **Wealth** which has **Purchasing Power**"

Then he says[2]—

For **Credit**, though it is not "**Productive**" **Power**, is **Purchasing Power** . . . .

"The **Credit** which we are now called upon to consider as a **Purchasing Power**"

Again[3]—

"The amount of Purchasing Power which a person can exercise is composed of all the Money in his possession, and due to him [*i.e.*, of all the Bank Notes, Bank Credits, Bills of Exchange, &c., belonging to him]: and of all his **Credit**"

So[4]—"The inclination of the mercantile public to increase their demand for commodities by making use of all or much of their **Credit** as **Purchasing Power**"

And[5]—"**Credit** in short has exactly the same **Purchasing Power** as **Money**"

Now if Mill gives as a definition—

"**Everything** which has **Purchasing Power** is **Wealth**"

And if he says that—

"**Personal Credit** is **Purchasing Power**"

Then the necessary inference is that—

"**Personal Credit** is **Wealth**"

That is a Syllogism from which there is no escape

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[1] *Preliminary Remarks*, p. 4 [2] *Bk.* III., ch. 11, § 3 [3] *Bk.* III., ch. 12, § 2 [4] *Bk.* III., ch. 12, § 3 [5] *Bk.* III., ch. 11

### *Mill admits that* **Credit** *is an Independent and* **Transferable Quantity**

3. The heading of one of Mill's chapters[1] is—" Of Credit as a Substitute for Money." Now if one quantity can be a substitute for another, it must be of the same general nature. If a person wants wine and cannot get it, he may put up with small beer as a substitute: but a pair of shoes could never be a substitute for a glass of champagne

Now if Credit can be a substitute for Money, Credit must be of the same general nature as Money. But Money is an Independent Exchangeable Quantity : therefore Credit must also be an Independent Exchangeable Quantity

Accordingly Mill speaks of[2]—" Credit **Transferable** from hand to hand "

He also says[3]—" But we have now found that there are other things, such as Bank Notes, Bills of Exchange, and Cheques [which Mill admits are Credit] which circulate as Money : and perform **all** the functions of it "

Hence we see that Mill admits that Personal Credit is an Independent Quantity : and circulates exactly like Money : and produces all the effects of Money

### *Mill admits that* **Rights** *are* **Wealth**

4. Having shown that Mill admits that Personal Credit is Wealth : we have now to show that he admits that **Rights** are **Wealth**

He says[1]—" An Order or Note of hand or Bill of Exchange [which are Credit] payable at sight for an ounce of gold, while the Credit of the giver is unimpaired, is worth neither more nor less than the gold itself "

That is as the Italian proverb says—" Che oro vale, oro è "— " *That which is of the Value of Gold, is Gold* "

That is, Mill admits that an abstract Right, whether recorded on paper or not, which is sure of being paid in gold, is of exactly the same Value as gold: which is self-evident, because the Gold is the Value of the Promise

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[1] *Bk.* III., ch. 11, § 3

[2] *Bk.* III., ch. 12, § 5

[3] *Bk.* III., ch. 12, § 3

[4] *Bk.* III., ch. 12, § 1

These Rights include Banking Credits, Bank Notes, Cheques, Bills of Exchange: Exchequer Bills: Navy Bills: Dividend Warrants: Book Debts of traders: and private and personal Debts

Now, these Rights are all included under the Title of Credit. Hence Mill admits that Credit in all its forms, which is sure of being paid in gold, is of exactly the same Value as Gold: and, therefore, is Wealth equally with Gold

All these Rights, or Credit, are payable in a definite sum in Gold: and, therefore, they have a fixed Value in Gold

Mill also[1] speaks of Credit in the forms of Bank Notes: Cheques: Promissory Notes: Bills of Exchange, &c.

Now all these Instruments are Rights to a Future Payment: therefore Mill admits that a **Credit** is the **Present Right** to a **Future Payment**

### *Mill admits that* **Credit** *may be used as* **Capital**

5. We have shown that Mill admits that Credit circulates as Money, and performs **all** the functions of it

Now one of the functions of Money is to be used as Capital: and, therefore, if Credit performs **all** the functions of Money: Credit may be used as Capital as well as Money

Further on[2] he is still more explicit—"The value saved to the community by thus dispensing with metallic Money is a clear gain to those who provide the substitute. They have the use of twenty millions of Circulating Medium which have cost them only an engraver's plate. *If they employ this accession to their fortunes as* **Productive** *Capital* [Mill, as we have seen, denies that Credit is Productive], the produce of the country is increased, and the community benefited as much as by any other **Capital** of equal amount. . . . . When Paper Currency is supplied, as in our own country, by Bankers and Banking Companies, the amount is almost wholly turned into **Productive Capital.** . . . . A Banker's profession being that of a

[1] *Bk.* III., ch. 12, § 5

[2] *Bk.* III., ch. 22, § 2

money-lender, his issue of Notes is a simple extension of his ordinary occupation. [We shall show hereafter that all this is a gross delusion]. He lends the amount to farmers, manufacturers, or dealers, who employ it in their several businesses. So employed it yields, like any other **Capital**, wages of labor, and profits of stock. . . . . The **Capital** itself in the long run becomes entirely wages, and when replaced by the sale of the produce becomes wages again: thus affording a perpetual fund of the value of twenty millions for the maintenance of Productive Labor"

And he also says[1]—"Now an effect of this latter character naturally attends some extensions of Credit, especially when taking place in the form of Bank Notes, or other instruments of exchange. The additional Bank Notes are in ordinary course first issued to producers or dealers to be employed as **Capital** . . . and there is a real increase of **Capital**"

### *Mill admits that* **Credit** *may be used as* **Productive Capital.**

6. Now if Mill admits that anything which has Purchasing Power is Wealth

And if he says that Credit is Purchasing Power

And if he admits that Bank Notes, Cheques, Bills of Exchange, &c., Circulate as Money: and perform all the functions of Money

And if he admits that Bank Notes, &c., may be used as **Productive Capital**

Then **Credit** may be used as **Productive Capital**

This is a Sorites from which there is no escape

### *Mill denies that* **Credit** *is* **Productive Power**

7. And yet the very same Mill says[2]—

"For Credit, though it is **Not** Productive Power, is Purchasing Power"

"It is **Not** a Productive Power in itself"

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[1] *Bk.* III., ch. 11, § 1, *note*

[2] *Bk.* III., ch. 11, § 3

"Although, therefore, the Productive Funds of the country are **Not** increased by Credit"

And several other passages to the same effect

### *Mill sneers at those who say that* **Credit** *is* **Capital**

8. Having thus shown that Mill admits that Credit is an Independent Quantity—that it is the Present Right to a Future Payment—that it is embodied in the form of Bank Notes, Cheques, Bills of Exchange, &c.—that they are Transferable from hand to hand—that they Circulate like Money, and perform **all** the functions of Money—and that they may be used as Productive Capital—it may surprise some readers who are not used to Mill, to hear that Mill not only denies that Credit is Capital, but sneers at the imbecility of those who say that it may be so used

In the chapter headed—"Of Credit as a substitute for Money," he says[1]—"The functions of Credit have been a subject of as much misunderstanding and as much confusion of ideas as any single topic in Political Economy. . . . .

"As a specimen of the confused notions entertained respecting the nature of Credit, we may advert to the exaggerated language so often used respecting its national importance. [By whom ?] Credit has a great, but not, as so many people seem to suppose, a magical power— [Who said it has ?]—it cannot make something out of nothing. [Yes, it can.] *How often is an extension of Credit talked of as equivalent to a creation of Capital, or as if Credit actually were Capital ?* [Why ! who has said more distinctly than Mill himself that Credit may be used as Capital : and and that Credit is Capital ? The very object of the preceding extracts is to show that Credit may be used as Capital, exactly in in the same way that Money is.] It seems strange that there should be any need to point out that Credit, being only the permission to use the Capital of another person, the means of production cannot be increased by it, but only **Transferred.** [Mill admits that Bank Notes, &c., are Credit : are Bank Notes, &c., the permission to use the Capital of another person ?] If the borrower's means of production and employment of labour are increased by the Credit given him, the lender's are as much diminished. [Nonsense: in every operation on Credit the lender, *i.e.*, the seller of the goods, receives as the price of them a Bill of Exchange which he can either use for further purchases, or discount with his banker and so get ready money for it. The same sum cannot be used as Capital both by the owner and also by the person to whom it is lent. [Who said it could?] It is true that the Capital which A has borrowed from B, and makes use of in his business, still forms part of the wealth of B [Nonsense: he has *sold* it to A and got a Bill in exchange for it] for other purposes, he can enter into arrangements in reliance on it, and can borrow when needful an equivalent sum on the security of it: so that to a superficial eye it might seem as if both B and A had the use of it at once. [Only to the superficial eye of a logician.] But the smallest consideration will show that when B has parted with his Capital to A, the use of the Capital rests with A alone, and that B has no other service from it than in so far as his ultimate claim upon it serves him to obtain the use of another Capital from a third person C. All Capital (not his own) of which any person has really the use, is, and must be, so much subtracted from the Capital of someone else. . . .

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[1] *Bk.* III., ch. 11, § 1

"But though **Credit** is but a **Transfer of Capital** from hand to hand"

And several other passages to the same effect

### Confusion *of Mill on* Credit

9. The reader cannot fail to see the astounding confusion of Mill's ideas on Credit in the preceding extracts

In the first set he says that Credit is the **Right** to a future payment—that it is an *Independent Quantity* which is bought and sold, and transferred from hand to hand like Money—and may be used as Capital like Money

In the second set he makes Credit to be the **Transfer** of Capital: or an **Operation**

That is, Mill cannot perceive the difference between an **Independent Quantity** and an **Operation!!**

Now we ask—Is a Bank Note the Transfer of a commodity? Is a Guinea the Sale of a book? Is a Table the Transfer of a chair? Is a piece of Independent Property of any sort the Transfer of anything else? Is an **Independent Quantity** of any sort an **Operation**?

Mill says that Credit is the Transfer of Capital: and then he speaks of Credit Transferable from hand to hand!

Now how is it possible to Transfer the Transfer of Capital? To Transfer Capital is an Operation: also when Credit is transferred from hand to hand it is an Operation. But how is it possible to **Operate** upon an **Operation?**

Mill informs us that Credit cannot make something out of Nothing. Who said it could? Can a guinea make something out of Nothing?

It is not Credit which makes something out of nothing—but the Credit itself—the Right of action—the Present Right to the future payment—which Mill admits to be of the Value of the Gold promised—which is created out of nothing by the mutual consent of the parties to the contract—which Right by the reiterated admission of Say and Mill is capable of circulating like Money, and performing all the functions of Money: and, therefore, it may be used as capital exactly like Money

Money is used as Capital by being exchanged away for other things, goods, or labor: or by circulating other things: and Credit may be used to circulate goods, or labor, precisely in the same way.

Moreover, we see how completely Mill is in error when he says that Credit is never anything else than the transfer of Capital. Credit is used to an enormous extent to purchase Labor: just as Money is: and Credit is also used to an enormous extent to purchase other Credits: as will be shown more fully when we come to exhibit the mechanism of Banking

After this exposition our readers will perhaps think that Mill is not exactly the person to sneer at others for their confused notions about Credit: though his own work is a striking example of the misunderstanding and confusion which he says prevail upon the subject. And many may perhaps wonder at a logician who is unable to perceive the difference between an **Independent Quantity** and an **Operation**

After this melancholy exposure of Mill—and this brick is in reality a specimen of the whole house—who is, or was till lately, the logical Pope of the British people, a good many persons will think that there is considerable truth in Carlyle's caustic remark that professed writers on logic are the most illogical of writers

### *Contrast between the* **Idola,** *or* **False Concepts,** *of* **Credit** *and* **Debt,** *and the* **True ones**

**5.** There is no method so effective for exterminating False Concepts, or **Idola,** of things as to bring them into sharp and close contrast with the true ones. We shall, therefore, place in array for summary execution after the manner of the Chinese, the False Notions, or **Idola,** of Debt and Credit which have so bewildered and misled ill-informed writers

The reader must therefore observe that—

A Debt is **Not** Money owed by the Debtor

A Debt is **Not** a subtraction from the Property of the Debtor.

A Debt is **Not** Money in the possession of the Debtor, to which the Creditor has a right

A Debt is the Abstract **Personal Duty** of the Debtor to **Pay** or **Do** something

A Credit is **Not** the thing lent

A Credit is **Not** the Transfer of anything

A Credit is **Not** a Title to any specific Money or Goods

In popular language, Credit is the personal reputation which a person enjoys, in consequence of which he can buy Money, or Goods, or Labor, by giving in exchange for them a Promise to pay at a future time

But "A Credit" in Law, Commerce, and Economics, is the Right of action which one Person, the Creditor, has to compel another Person, the Debtor, to Pay or Do something

And this Right of action is termed perfectly indifferently both in Law and common usage, a Credit or a Debt

And the word Debt is used perfectly indifferently to mean the Creditor's Right of action, and the Debtor's Duty to pay

And the Creditor can sell this Right of action to any one he pleases. And it has Value because it will be paid, or exchanged for the thing promised, at the fixed time

It is, therefore, Merchandise, or a vendible Commodity : and it has Value for exactly the same reason that anything else has Value

And because these Credits, Debts, or Rights of action, can be bought and sold or exchanged like any material chattels, and in fact they form the most colossal branch of commerce at the present day : they are termed *Pecunia*, *Bona*, *Res*, *Merx*, in Roman Law : χρήματα, πράγματα, οἶκος, ἀγαθά, ουσία, οὐσία ἀφανής in Greek Law : Goods, Chattels, Commodities, Merchandise, Incorporeal Wealth, in English Law : and Wealth and Capital in Economics

Sir Charles Lyell says that when a strange proposition is published to the world, it screams out that it is false : then that those who maintain it are Atheists : and then, lastly, that every one knew it already

When nearly 40 years ago, we said in a former work that Credit is Capital, which doctrine we first learned from Adam Smith, and to which from our knowledge of the Banking system of Scotland, we gave a most hearty assent, there was a shout of scorn and derision from many writers in England and France : Whately thought it necessary to enter into a long argument to prove to the Dons at Oxford, that an Economist is not necessarily an Atheist : and now we have clearly shown that every one knew already that Credit may be used as Capital

# CHAPTER V

## UPON INSTRUMENTS OF CREDIT

### *Meaning of* **Instrument**

**1.** Credits, Debts, Rights of action are, then, Goods, Chattels, Commodities, Merchandise, and though in the abstract state in which they are Incorporeal Property, or Incorporeal Chattels, they can neither be seen nor handled, and therefore cannot be transferred by manual delivery, they may, nevertheless, be bought and sold, or exchanged, as freely and easily as any material chattels

But if they are written down on some material, such as Paper, Parchment, or any other, they become Corporeal or Material Chattels, and they may be transferred by manual delivery like Money, or any other material chattel

When the Credit or Debt is recorded on Paper, Parchment, or other material, it is termed an **Instrument of Credit,** or of **Debt**: and when used in this sense it has a technical meaning which is often overlooked

The word **Instrument** has two distinct meanings—

1. Sometimes it means a tool or implement, by means of which some purpose is effected. Thus Edgar says in *Lear*—

> "The gods are just, and of our pleasant vices
> Make *Instruments* to plague us"

So Smith speaks of Money as "the great Instrument of Exchange" and "Instrument of Commerce": *i.e.*, the means, or medium, by which Exchanges, or Commerce, is carried on: as we have seen, it is termed the Medium of Exchange

But when the Bills and Notes are termed **Instruments** of **Credit,** or **Debt,** the word has quite a different meaning from what it has in the phrase Instrument of Exchange

The term Instrument of Exchange denotes the means by which Exchanges are effected : the term **Instrument** of **Credit** means the **Record** or **Document**, or written evidence of the **Debt.**

2. In Roman Law **Instrumentum** means any evidence whether personal, or written, by which a Court or Judge was informed of a fact: or the merits of a case

Thus, Suetonius speaks of the *Instrumenta Imperii*, or the written records of the Empire : Quinctilian speaks of the *Instrumenta Litis*, or the documents relating to a case: Tertullian, Erasmus, and the reformers call the Christian scriptures the *Novum Instrumentum*

This meaning is very common in English. Thus, out of innumerable instances, Hallam says—"Is abundantly manifest by the Instruments of both the kings . . . . by Instruments executed at Calais": so Brougham, speaking of the declaration of American independence, says—"As the clock struck the hour when that mighty Instrument was signed"

In these and similar instances the word Instrument means a written Record or Document

In English Law the word Instrument is restricted to written records : and thus is equivalent to Document: which is any writing which informs the Court of a fact: it means simply a written record

In Roman Law written documents of debt were called *Instrumenta Debitorum:* hence an Instrument of Credit, or of Debt, means any written evidence of a Debt. In Courts of Law and legal treatises such documents as Bank Notes, Cheques, Bills of Exchange, &c., are invariably termed Instruments

Instruments of Credit or Debt are usually said to be of three forms—

1. Orders to pay money
2. Promises to pay money
3. Mere acknowledgements of Debt: such as an I O U
4. But besides these, there is a fourth form, which, though it is not usually classed under that term, must for scientific reasons be so: these are Credits or Debts recorded in the books

of bankers termed in banking language **Deposits**: and those recorded in the books of traders termed Book Debts: for all these are written evidences of Debt

### *Great* Extension *of the System of* Bills *of* Exchange

**2.** For a considerable time the origin of Bills of Exchange was involved in considerable obscurity. Many writers attributed them to the Jews, who were severely persecuted and expelled from France in 1181 by Philip Augustus. Multitudes of writers have asserted that the Jews invented them at this period in order to transmit their effects to foreign countries. But such an idea could only have arisen from an infantine ignorance of the nature of Bills of Exchange and of an Exchange. It would be just as rational to say that if a man was threatened with having his house robbed, he could draw a cheque upon a bank in which he had no account in order to transmit his effects to it. Or that he could send his luggage by the electric telegraph

However, the mystery is now cleared up. They were invented by the Roman bankers, and their use was quite common in the days of Cicero: and probably for a considerable time before: as Cicero used the technical terms respecting them which shows that their usage must have been well established. There is no evidence that they were used in commerce, or that they were made transferable[1]

An Austrian friend of ours has informed us that in a Sclavonic chronicle of the fifth century he found a provision that if Russian merchants died at Constantinople the value of their property should be remitted to Russia by Bills

The terrible cataclysm of the fall of the Roman Empire no doubt greatly restricted the system of dealing in Credit between distant towns. But in the eleventh century Europe had again begun to assume a more settled state. The cities of Lombardy especially devoted themselves to this species of commerce: and Gallenga says that a treaty between the city of Asti and Humbert

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[1] From an isolated passage in Isocrates it has been asserted that Bills of Exchange were used by the Greeks: but the passage warrants no such inference: it would be as if we were to assert that the Romans invented printing because in some cases they used stamps with letters.

II. of Savoy in 1095 shows that the cities of Asti and Chiera had already begun to introduce the system of Bills of Exchange and Banking into France and England

The only word in classical Latin, that we are aware of, for drawing Bills, is *permutare*. But about the end of the first century a provincial Latin word *Cambio* (*-ire* or *-iare*) which appears as *campsare* in Ennius and Cicero, and meant to double a promontory, was used to mean to exchange by Columella and Siculus Flaccus : it gradually came into common use, and was employed by Apuleius and Charisius. Priscian, A.D. 500, protested against using *campsare* as synonymous with *permutare*. Nevertheless, this meaning prevailed, and in the middle ages *Cambire* or *Cambiare*, or *Campsare*, completely superseded *permutare*: *Cambitor*, *Cambiator*, and *Campsator* superseded *Argentarius*, *Mensarius* and *Nummularius* as meaning a money changer : hence our word Cambist. In the middle ages Bills of Exchange were called *Litteræ Cambitoriæ*: and when *Bancherius* was used for a banker they were called *Litteræ Bancales*

Weber says that Bills of Exchange were in common use in 1171. A charter granted to the City of Hamburg in 1189 authorised them to deal in Bills. In 1243 a statute of Avignon relates to *litteræ cambii*: one of Venice in 1272 : and many other cities passed similar statutes

About this period the system of Bills of Exchange received an immense extension. In the times of the Crusades the Popes claimed the right to tax all Christendom for their support. They had their own *Cambiatores*, or money dealers, who kept tables in the cathedrals to exchange the money of foreigners who came to worship. These persons sent their own agents into different countries to collect the Papal tribute. As soon as they collected a certain sum they sent the Pope drafts on their principals. These were called *Litteræ Cambitoriæ*

In the twelfth century Florence became very celebrated for this "banking" business, as it was called. Lucca, Siena, Milan, Placentia, and numerous other towns in the north of Italy, were also famous for it. Cahors, in France, also became a great Monetary, or Banking, centre: and the name of Caorsini became synonymous with usurers: Dante places the Caorsini in company with the Cities of the Plain in the Inferno for this imaginary crime: why did not he place his own countrymen there, too, to keep them countenance?

In 1229 these persons were first introduced into England. The Pope sent his chaplain Stephen and a nuncio to demand a tenth part of all the movable goods of all persons, lay and clerical, in England, Ireland, and Wales, to support his war against Frederick II. The feeble king agreed to this impudent demand: but in a Parliament held to consider it, the lay lords indignantly refused to subject their lands to the Pope. The unfortunate ecclesiastics had no resource but to yield. The Pope drew bills upon all the Bishops and Abbots, which they were obliged to honor under pain of excommunication. A detachment of Caorsini came over with the nuncio to London and settled there, in order to lend money at heavy interest to the Bishops, to enable them to meet the Pope's drafts

Ranke says[1]—"As it has been observed that the business of exchange, or Banking, in the middle ages, received its chief extension from the nature of the Papal revenues, which falling due throughout the world, had to be remitted from all quarters to the Curia"

### *On the* **Form** *of* **Bills** *and* **Notes**

**3.** 1. We have no notice when the use of Bills of Exchange by merchants became general

The oldest Bill of Exchange known to exist is in the following terms and dated 1381—

> *Al nome di Dio, Amen. A primo di Februario, MCCCLXXXI., pagate per questa prima lettera ad usanza, da voi medesimo libre* 43 *de' grossi, sono per cambio de' ducati* 440, *che questi chi hone receuuto da Sejo el Compagni altramente le pagate*

Another is quoted by Capmany, an eminent Spanish writer, which was drawn in 1404 by a Lucchese merchant of Bruges on his correspondent at Barcelona, negotiated at Bruges, but dishonored at Barcelona. It is in these terms—

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[1] *History of the Popes*

*Al nome di Dio, Amen. A die Aprile, XXVIII.*, 1404. *Payate per questa prima di camb. a usanza a Pietro Giberte e Pietro Olivo, scuti mile a sold ×. Barcelonesi per scuto: e quali scuti mille sono per cambio che con Giovanni Colombo a Gressi, XXII. de gresso per scuto, et Pon. a nostro conto: et Christo vi guardi*    Antonio quart. Sab. di Brugis.

From the terms in which these bills are drawn it is quite evident that they must have been long in use

In the archives of Venice there are a considerable number of Bills of Exchange of the 15th century, drawn by Venetian merchants on their correspondents in London, but sent back protested for non-payment

In none of these bills are there any words of negotiability: just as there need not be in Scotch bills at the present day: nor is there any mention of Value received. Many writers have been puzzled to know when Bills of Exchange were made transferable. But the investigation in the preceding chapter has cleared away all mystery on the subject. They were negotiable by the general mercantile law of the Empire: which enacted that any Creditor had the right to transfer his Debts, or Rights of action, as freely as any other chattel

2. Obligations by the Common Law of England, to which the legislation of Justinian never extended, were not payable to anyone but the payee without the consent of the Obligor. Accordingly at a very early period it was usual to make Obligations payable to the payee or his attorney, equivalent to the modern or order. Matthew Paris quotes an Obligation of the Prior of N., dated 1235, and made payable to certain Milanese merchants in London, *aut uni eorum vel eorum certo nuncio*

The Statute of Merchants, 11 Edw. I. (1283), is the first Act noticing mercantile Obligations. It enacts that if their debtors did not pay at the agreed upon time, the merchants might bring them before the proper authorities, and the clerk should draw up an "escrit d'Obligation" or a "lettre d'Obligation" which the official translation renders a Bill Obligatory, to which the Debtor was to affix his seal: binding him to pay on a certain day

In the 31st year of his reign Edward I. granted a Statute to the City of London for the protection of foreign merchants, which enacted that they might pay the customs duties on their exports by Bills on their principals, or partners

These Bills Obligatory were Deeds or Specialties in the form of promises to pay: and they belong to the category of instruments classed in modern times as Promissory Notes. It has been supposed in recent times that Promissory Notes were unknown to the common law, and were invented by the goldsmith-bankers in the seventeenth century: but this idea is quite erroneous

These early Promissory Notes were not at first made transferable, but in process of time as all other Obligations came to be made transferable, merchants came to make their Obligations in both forms of Promises to pay and Orders to pay under seal, transferable to bearer or assignee

3. In Arnold's Chronicle, first published in 1502, but supposed to be founded on an earlier work, containing many of the customs of the City of London in the reign of Edward IV. and Henry VII., several forms of Obligation are given as being in common use: of which the following are some examples—

### Byll *of* Payment

"Be it knowen to all men, me A. B. de civitat. L. in countee of M. marchaunt, to be bounde be thes present obligacion to F. G. of C. in ye countc of K. i. xii. li. lawful money of England, to be paid to ye said F. G. or to his *certeyne atturnai*, his eiers or executurs, at the fest of Sanct. M. tarchaungel next comyng aft' ye date of this present without further delai, to the which paiment wel and truli to be made, I bynde my eiers and myn executurs be theis presents sealed with my seale, yeven ye furst day of ye monethe of M. ye yere of ye regne of K. H. ye VII. after ye conquest ye fust"

Another is made payable to Assignes—

### Byll *of* Payment

"Memerand' this byll made the iiij day of Julij in ye xix. yere of the reigne of Kyng Edward the iiij beryth wytnesse yt we Ric. Shirlee of London grocer and Thomas Shirlee of London haburd' owen unto W. Warboys and John Benson of London haburd, xxxviij s. ij d. stg. to be paid to the said W. and J. or to ether of them, or to their eyers ther executors, or to their **Assignes**, ye furst day of Julij next coming, wythout ony delay, to the whiche payment wel and truly to be made we binde us, our eyers, executors, and our assignes, and each of us in the hoole. In wytness wherof we set to oure seales the day and tyme afore rehersed"

A form also is given of a Bill of Exchange payable to bearer—

### Lettre *of* Exchaunge

"Be it knowen to alle men yt I R.A. citezen and habd' of London have ressd by exchaunge of N. A. Mercer of the same cite xx. li. stg., which twenty ponds stg. to be paid to the said N. or *to the* **Bringer** *of this byll*, in synxten marte next comyng for xi. s. viij. d. stg. ix. s. iiij. g. flg. money currant in the said mart, and yf ony defaut of payment be at the day in alle or ony part yerof, that I promyse to make good all costis and scathes that may grow thereby for defaut of payment, as well as the principal some, bee this my furst and second lettur of payment: and herto I bynde me myn executors and alle my goodis whersoever they may be founde. In wytnesse wherof I have written and sealyd this byll, the x day of Marche Ao. Dni. MCCCC. lxxxvij"

These common forms establish the fact that in the time of Edward IV. it was usual to draw Bills of Exchange in the form of Promissory Notes, and to make them payable to bearer: and also that Promissory Notes payable to "order" or to "assigns" were in common use: and as a matter of course these were all Deeds under seal, or Specialties

As they were given as common forms at that period they must have originated long before: but how long we have no knowledge of any evidence to show. But as we have shown that it was common to draw annuity bonds payable to assigns in 1368 we may reasonably presume that it was equally usual to draw Bills of Exchange payable to bearer or to assigns at the same period

There is no instance, however, of such a document being brought before a Court of Law, which may show that our ancestors were either more punctual in their payments, or less litigious than their descendants. If one of these documents had come before a Court of Law, we may be certain that they would have recognised its validity: just as they recognised the validity of all other Obligations made transferable by the Obligor

Mr. Lawson gives a copy of a Bill of Exchange also drawn in the form of a Promissory Note in the reign of Elizabeth—

"Witnesseth this present bill of exchange that I, Robert Anderson, merchant, of the city of Bristowe, doe owe unto Thomas Mun, merchant of the said city, the sum of 100 ducats: I say an hundred duckets of current monie of Spain, accompting after 11 rials of plate to the ducket: to be paid unto the said Thomas Mun, *or his* **Assignes** within ten daies next, and yemediately after the safe arrivall of the good ship called the Gabriel of Bristowe to the port of S. Lucai in Andalousia in Spaine, or any part of the discharge. And for the true paiment thereof, I, the above named Robert Anderson, do bind me, my goods, my heirs, executors and assigns, firmly by these presents. In witness of the truth, I have caused two of these bills to be made (the which the one being paied, the other to be voide), and have put my firme and seale into them: and delivered them as my deed in Bristowe, the 15th day of September, 1589, and in the 31 yeere of our Sovereign Queen Elizabeth her Majesties reigne"

In *Vanheath* v. *Turner* (*Winch* 24) in 1621, Vanheath brought an action against Turner, and declared upon the custom of merchants, that if any merchant over sea deliver money to a factor, and make a Bill of Exchange *under his Seal*, &c.

In *Shelden* v. *Hentley*, 1680 (2 Show. 160), the declaration was on a Note *under Seal*, Jones, J., said—"At the time of the sealing whose deed was it?" The Court said—"The person seems sufficiently described at the time it was made a **Deed**"

In the edition of "les Termes de la Lei" of 1707, it is said that merchants were claiming the same right to bring actions on *Signed* bills as on *Sealed* bills

In Lord Holt's cases the Court unanimously admitted that Sealed Bills and Notes were legal: their objection to *Signed* notes was that it was making a mere piece of paper equal to a Specialty

At this time it was perfectly indifferent whether Obligations were drawn in the form of Orders or of Promises to pay: they were equally valid at common law: "*non figurâ litterarum, sed oratione quam exprimunt, obligamur*" "We are not bound by the form of the writing, but by the intention it expresses" is equally Roman and English law, and common sense

A Bill of Exchange in former times meant an Obligation in any form to pay the value of a certain amount of the Money of one country in the Money of another at a certain rate of Exchange. When the Obligation originated with the Creditor, it naturally was in the form of an Order addressed to the Debtor to pay: when it originated with the Debtor, it was naturally in the form of a Promise to pay. An Obligation payable within the country itself was called an Inland bill

The word Bill meant any writing whatever in any form, whether under seal or not, and therefore included Deeds, or Specialties

In Marlowe's *Faustus*, when Faustus is selling his soul to Mephistopheles, he tells Faustus that he—

"Must write it down
In manner of a **Deed** of Gift"

Faustus seeing his blood stop flowing, says—

"Is it unwilling I should write this **Bill**?"

And then—

"*Consummatum est:* this **Bill** is ended"

Then says Mephistopheles—

"Speak, Faustus: do you deliver this as your **Deed?**"

The word Note had exactly the same meaning: so that the words **Billa** and **Nota** meant any writing, whatever its form might be, and whether under seal or not

Instruments of the form of Promises to pay payable within the country were called "Bills of Payment," "Bills of Debt," "Bills of Credit," "Bills of Obligation": Bank Notes were called Bank Bills. In the Act establishing the Bank of England, its Notes were called "Bills of Credit" and "Bills Obligatory." In one case a Note for the payment of money was termed an inland bill by the Court. In another case two Goldsmiths' or Bankers' Notes were declared upon as Bills of Exchange, and were called so throughout the case. In another case it is said—"If a merchant's apprentice draws a *Bill* (as I do promise to pay such a sum for my master) to charge the master with the *Note.* So in several cases Bank Notes are called Bills. In many parts of the country at the present day Bank Notes are still called Bank Bills: and very usually so in America

Since, however, the decisions in the cases by Lord Holt, and the Statute of Anne described in the preceding chapter, the term Bills of Exchange has been restricted to Orders to pay, and Promissory Notes to Promises to pay

One great establishment still keeps up the old hybrid form of obligation in a species of paper it issues. The following is the form of a—

*Bank of England Post Bill*

No. London, 18

*At seven days' sight I promise to pay this my* sola *Bill of Exchange to* *or order* **One Hundred** *sterling.*

Value received of

For the Governor and Company of
The Bank of England.

£ One Hundred.
Entd.

## Definition *of a* Bill *of* Exchange

**4.** A written **Order** from one person to another who **Owes,** or appears to owe, him Money as a **Debtor,** directing him to pay absolutely and at all events: (1) a certain sum of money: (2) to a certain person: (3) at a certain event: is in modern language termed a **Bill of Exchange**: or shortly a **Bill**

The following is the usual form of a Bill of Exchange—

£250 10 6 London, May 4, 1893

*Three months after date pay to A. B., or to myself, or order, the sum of Two hundred and fifty pounds, ten shillings, and sixpence, for value received* William Smith

To Mr. John Cox, 543, Strand, London

The person who addresses the letter is termed the **Drawer**: the person to whom it is addressed is termed the **Drawee**: the person to whom it is to be paid is termed the **Payee**

If the Drawee has not already agreed to pay the Bill when it comes into the hands of the Payee, he should take it at once to the Drawer, and request him to engage to pay it. If the Drawee agrees to do so, he must write his name, usually, but not necessarily, across the face of the Bill, with the word "Accepted": he is then termed the **Acceptor**: and the Bill is then very usually called an **Acceptance**

In England an ordinary Debtor is not compellable to accept a Bill drawn on him by his Creditor

But in Scotland, which adopts the Law of Justinian and the Basilica, that a Creditor has the right to sell his Debt even against the consent of his Debtor: a Debtor is bound to accept a Bill drawn upon him by his Creditor: and is liable to an action for non-acceptance

This distinction is maintained by the Bills of Exchange Act, 1882

By the Common Law of England even if a Debtor has accepted a Bill payable to the payee only, and without the words "or order": the Creditor could not transfer it to any one else so as to enable the Transferee to sue the acceptor in his own name

And any Transferee could not acquire any better title to it than that of the Transferor: consequently the Bill did not formerly possess the attribute of Currency or Negotiability

But in Scotland instruments are current and negotiable without the words "or order." And a bill drawn in Scotland payable only to the payee, being current and negotiable by the *lex loci contractûs*, was always current and negotiable in England

Since the Supreme Court of Judicature Act, bills drawn without the words "or order" are also current and negotiable in England: and the presentation of the bill to the Acceptor is sufficient notice to him of the transfer of the Debt: even if the Drawee had refused to accept the bill

But in this case the right of the Transferee would be dependent on the state of accounts between the Drawer and the Drawee

### Definition *of a* Draft

**5.** A written Order from one person to another who **Holds** a sum of Money as a **Depositum**, as the Trustee, Bailee, or Agent or Servant of the Drawer, to pay a sum of money to another person, is termed a **Draft,** or Order for the payment of Money

Bills of Exchange and Drafts are of exactly the same form and external appearance. The essential distinction between them consists in the difference in the relation between the parties to the instrument

In a Bill of Exchange the Drawee is the Debtor of the Drawer: the property in the Money drawn for resides in him: the Drawer is his Creditor: and he has only a Right of action to compel the Drawee to pay a sum of Money: but he has no right or title to any specific money in the Drawee's possession

In a Draft the property in the Money resides in the Drawer: the Drawee merely holds it as a **Depositum**: he has possession of it only as the Trustee, Bailee, Agent, or Servant of the Drawer, and if he appropriated it to his own use it would be embezzlement.

Hence, in such a case, when the Drawer draws a Draft, or Order for the payment of Money, and delivers it to another person, he is not transferring a Debt, or Right of action due to him: he is directing his own servant to deliver to a certain person a portion of his own money : which is in the custody of his servant.

Also, the holder of the fund is not personally liable on such a Draft, or Order : he is only bound to pay it if he has any Money of the owner's in his possession : consequently such a Draft or Order is not a **Credit**, or Personal Obligation : it is a Title to an undefined portion of some specific money

Such an Order is not a Bill of Exchange ; it is contrary to the fundamental nature of a Bill of Exchange

If a Bank has several branches orders granted by the Head Office on the branches, or *vice versâ*, are not Bills of Exchange, but Drafts

Thus, the Definition of a Bill of Exchange usually given in law books, and in the Bills of Exchange Act of 1882, is essentially defective :—

"A Bill of Exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a certain sum of money or to the order of, a specified person, or to bearer"

Now it is true that every Bill of Exchange is an order to pay money : but every order to pay money is not a Bill : the word order to pay money includes both Bills and Drafts

### **Definition** *of a* **Promissory Note**

**6.** An unconditional written Promise made by a person to pay, absolutely and at all events : (1) a certain sum of Money : (2) to a certain Person : (3) at a certain event : is in modern language termed a **Promissory Note** : or shortly, a **Note**

The following is the usual form of a Promissory Note

£125 6 8 London, May 4, 1893

*Three months after date I promise to pay John Jones, or order, the sum of One hundred and twenty-five pounds six shillings and eight pence* WILLIAM JOHNSON

William Johnson is termed the **Maker** of the Note : and John Jones the **Payee**

## General Rules *relating to* Bills *and* Notes

**7.** Where the Bill or Note is made payable to the Payee, "or order," the Payee must, before he transfers the Instrument to anyone else, write his name on the back of it: hence it is termed an **Indorsement**: the Payee is termed the **Indorser**: and the Transferee is termed the **Indorsee**

If the Indorser simply writes his own name, and then delivers the Instrument to the Indorsee: it is termed a general Indorsement: or an Indorsement in **Blank.** The Instrument is then transferable by mere delivery, without any further Indorsement: exactly like a Bank Note, or like Money: and the Instrument is payable to bearer like a Bank Note

The Indorsee may make the Instrument payable to some specific Indorsee only: if he does so, it is termed a **Special** Indorsement: and the Instrument can only be paid to the Special Indorsee

Formerly Indorsement was necessary in all cases to transfer the Property in a Bill or Note: but that has long ceased to be the case in English Law. It became the custom of merchants which has long acquired the force of law, that any Instrument of Credit indorsed in blank may be transferred by simple delivery, without any further Indorsement

It is, however, the general custom for the transferee to require the Indorsement of the Transferor: not for the purpose of transferring the Property in the Instrument after the first Indorsement: but to retain the Transferor as a security or guarantee for the payment of the Bill

The effect of the Indorsement is that if the Acceptor of the Bill, or the maker of the Note, does not pay it at maturity: and the Indorsee gives *immediate* notice to the Indorsers, he can enforce payment from them

But the demand for payment must be made without delay: in almost all cases within twenty-four hours after the fact of non-payment. If the holder of the dishonored Instrument delays giving notice, he loses his remedy, and the Indorsers are discharged

In modern practice, then, the Indorsement is merely a limited warranty for soundness. The difference between buying goods with a Bill, with or without an Indorsement, is just the same as buying a horse, or a watch, or a carriage with or without a limited warranty. In all cases of buying a horse, a watch, or a carriage without a warranty, or buying a Bill without the Indorsement of the Transferor, it is an absolute and final sale

When the transferor indorses the Instrument, he says in effect—"I warrant the soundness of this Debt for twenty-four hours, and no longer"

The general rule of English Law now is, that if any Instrument of Credit be taken without Indorsement in exchange for goods or money: or if the period allowed for making the claim in the case of an unpaid and indorsed bill be allowed to elapse without making the claim: it is a final closing of the transaction. The payment is in fact as valid and final as if it were Money

Except only in the case of fraud: if the Transferor knew at the time of the transfer that the principal Debtor was insolvent.

But if the principal Debtor was insolvent without the Transferor's knowledge, the loss falls on the Transferee: because he might have preserved his remedy by taking the Transferor's indorsement: and if he neglects to do so he must suffer for his own *laches*

At the time when the Bank of England was founded, the Court of King's Bench had decided that Promissory Notes were illegal at Common Law: consequently in the Act, Statute 1694, c. 20, s. 29, founding the Bank, its Notes were declared to be transferable by indorsement at each transfer: and in the Act of 1705, c. 8, it was declared that all Promissory Notes might be transferred by indorsement like Bills of Exchange

In the case, however, of Bank Notes, as their payment was quite secure, the practice of indorsement soon fell into disuse. In the case of private bankers of good credit the indorsement was often omitted. But though the Indorsement was usually omitted, that neither altered the character of the instrument nor the law affecting them: and the receiver of the Note took it entirely at his own peril: and ran exactly the same risk as if he took any other instrument without indorsement

It is usual in English Bills and Notes to insert the words "for value received": but it is not necessary. In a recent case it was said that they mean nothing more than "your obedient servant" at the end of a letter. In fact Bills of Exchange are in their origin Deeds or Specialties, with the formality of sealing thrown off, and require no consideration: and formerly no consideration was ever stated: it was only when Bills of Exchange were supposed to be simple contracts that these words were first introduced. But they are not necessary: and they are often omitted

### *On* Banking Instruments *of* Credit

**8.** The Instruments of Credit which we have described may be called Commercial Instruments of Credit: because they arise out of the transactions of merchants. The introduction of Banking into England gave rise to two new forms of paper which may be called Banking Instruments of Credit

The essential nature of "Banking" is to create Credit in exchange for Money and Commercial Debts. These Credits are first of all entered in the banker's ledger. But though the banker has issued a Credit or Right of action to his customer by making an entry in his ledger, technically termed a Deposit, the customer cannot transfer his Credit or Right of action, to any one else by manual delivery, like Money

In order to do this, the Credit, or Right of action, must be written down on some material like paper, and then it can be transferred by manual delivery exactly like Money

This may be done in two forms—

1. If the customer wished it, the banker gave him his own Promissory Note promising to pay the sum specified in it, either to the customer himself, or to his order, or to bearer. This instrument was termed a Goldsmith's or Banker's Note

2. The customer might write a Note to the banker directing him to pay a certain sum either to some other person, or to his order, or to bearer. These instruments were formerly termed **Cash Notes**: in modern language they are termed **Cheques**

At first Goldsmiths' or Bankers' Notes were simply written on paper like ordinary Bills of Exchange, or like a private person's notes

The following is a specimen of an early banker's Note—

Nov. 28, 1684
*I promise to pay unto the Rt. honble. ye Lord North and Grey, or bearer, ninety pounds at demand*
*For Mr. Francis Child and myself,*
JNO. ROGERS

In July, 1729, Messrs. Child & Co. were the first bankers to adopt printed forms for their Notes. But they were not printed for definite sums of money like Bank notes: they were partly printed: and the name of the payee and the sum payable were filled in in writing—like modern Cheques

Sometimes they were payable to order, and sometimes to bearer: thus—

Picture of Temple Bar. No. 921 London, Oct. 20, 1729
*I promise to pay to Mr. Richard Bannister, or order, on demand, twenty pounds*
*For Fras. Child, Esq.*
SAM. CHILD.

Picture of Temple Bar. No. 1792 London, 8 Decemb., 1729
*I promise to pay Mr. Chr. Diggs, or bearer, on demand, thirty pounds*
*For Fras. Child, Self & Co.,*
SAM. CHILD

This was the form which bankers' notes maintained till their discontinuance. There was a great monetary panic in 1793: and bankers then ceased to issue their own notes: the latest specimen preserved is dated April 12, 1793

For a long time considerable uncertainty prevailed as to when Cash Notes or Cheques were first invented. It was a very common opinion that it was in 1772. But when the Royal Courts of Justice were built at Temple Bar, the excavations made for their foundations endangered the stability of the Bar, and it had to be removed. Messrs. Childs rented the room in the Bar, in which the records of the firm had been kept: and on the removal of the Bar these had to be cleared out: and then documents came to light which entirely set the question at rest: and showed that Cash Notes or Cheques were co-eval with the institution of Banking

These Cash Notes, or Cheques, were of various forms: sometimes payable to order, or to bearer

16 Nov., 1689

Mr. Jackson,—*Pray pay to the bearer hereof, Mr. Daniel Croker, five pounds, and place it to the accompt of*

*Your loving friend,*
JOHN WYNYARDE

To Mr. Roger Jackson,
At Sir Francis Child's, Goldsmith
just within Temple Barr

Sometimes they were only payable to bearer—

Mr. Childe,—*Pray pay unto the bearer the sum of twenty pounds and place it to the account of*

London, Aug. 29, 1682
E. POLLEXFEN

Sometimes they were payable at sight—

Bolton, 4th March, 1684

*At sight hereof pray pay unto Charles Duncombe, Esq., or order, the sum of four hundred pounds, and place it to the accompt of*

*Your assured friend,*
WINCHESTER

To Captain Francis Childe
near Temple Barre

Sometimes they were payable to payee or bearer—

To Mr. Childe and Mr. Rogers July 20th, 1688

*Pray pay unto the honorable Dudley North, or bearer, the sum of one thousand pounds, and be pleased to place it to the account of*

*Your friend and servant,*
YARMOUTH

Sometimes they were payable to order—

3d June, 1683

*Pray pay unto the Bearer hereof, Mr. Thomas Dickenson, or order, the sum of thirty pounds, and place it to the accompt of*

*Your lo: friend,*
PAUL WHICHCOTT

Sometimes they were sealed—

*Pray, Mr. Child, pay to Mr. Harrison the sum of a hundred pounds*

(Seal) D. TYRWHITT

Sir,—*I pray pay unto Mrs. Ann Richards, or her order, the sum of* £15, *for your lo: friend,*

To Mr. Child, or Mr. Rogers, THOS. MERES
Goldsmiths, near Temple Barr
2 Sept., '89 (Seal)

The last sealed Cheque which we have seen was this—

*Pray pay to my servant, Thos. B., the sum of seventeen pounds, and for so doing this shall be your order under my hand and seal, this* 17*th day of October*, 1737

ANCASTER, G. C. (Seal)

These documents are not merely mercantile curiosities: they possess great legal and historical interest. They prove the truth of the statement made some time ago that in the course of the 17th century sealed and signed Instruments of Credit were in concurrent use, and held equally valid: and they entirely dispose of the fantastic crotchets of modern judges and text-books that sealed Instruments of Credit are not negotiable

Moreover, the fact of there being *Two* forms of Instruments for transferring Banking Credits, instead of one, has had the most momentous effects in the history of Banking in England. In these early days Bankers' Notes were vastly more numerous than Cheques: and in framing the monopoly clauses of the Bank Charter Act, Bankers' Notes were only regarded: and the sole monopoly of Banking conferred upon the Bank was that of issuing Notes: and no person at that date conceived that the business of banking could be carried on without issuing Notes. But as will be shown in a future chapter, some time after London bankers had discontinued issuing Notes of their own accord, some lynx-eyed Economists discovered that a Joint Stock Bank carrying on business in the then manner of the London Bankers without issuing Notes was no infringement of the Bank's Charter: and the system of Joint Stock Banking in London was founded

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## CONTENTS.

PAGE
*BADMINTON LIBRARY (THE)* - - 10
BIOGRAPHY, PERSONAL MEMOIRS, &c. - - - - - - 7
CHILDREN'S BOOKS - - - 26
CLASSICAL LITERATURE TRANSLATIONS, ETC. - - - - - 18
COOKERY, DOMESTIC MANAGEMENT, &c. - - - - - - 28
EVOLUTION, ANTHROPOLOGY, &c. - - - - - - - - - 17
FICTION, HUMOUR, &c. - - - 21
*FUR, FEATHER AND FIN SERIES* 12
HISTORY, POLITICS, POLITY, POLITICAL MEMOIRS, &c. - - 3
LANGUAGE, HISTORY AND SCIENCE OF - - - - - - 16
*LONGMANS' SERIES OF BOOKS FOR GIRLS* - - - - - - 26
PAGE
*MANUALS OF CATHOLIC PHILOSOPHY* - - - - - - - 16
MENTAL, MORAL, AND POLITICAL PHILOSOPHY - - - - - - 14
MISCELLANEOUS AND CRITICAL WORKS - - - - - - - - 29
MISCELLANEOUS THEOLOGICAL WORKS - - - - - - - - 31
POETRY AND THE DRAMA - - 18
POLITICAL ECONOMY AND ECONOMICS - - - - - - - 16
POPULAR SCIENCE - - - - - 24
*SILVER LIBRARY (THE)* - - 27
SPORT AND PASTIME - - - - 10
TRAVEL AND ADVENTURE, THE COLONIES, &c. - - - - - 8
VETERINARY MEDICINE, &c. - 10
WORKS OF REFERENCE - - - 25

## INDEX OF AUTHORS AND EDITORS.

*Page*
Abbott (Evelyn) - 3, 18
—— (T. K.) - - 14
—— (E. A.) - - 14
Acland (A. H. D.) - 3
Acton (Eliza) - - 28
Adeane (J. H.) - - 7
Æschylus - - 18
Ainger (A. C.) - - 11
Albemarle (Earl of) - 11
Allen (Grant) - - 24
Allingham (W.) - 18, 29
—— (F.) - - - 21
André (R.) - - 12
Anstey (F.) - - 21
Archer (W.) - - 8
Aristophanes - - 18
Aristotle - - - 14, 18
Armstrong (G. F. Savage) - - 19
—— (E. J. Savage) 7, 19, 29
Arnold (Sir Edwin) - 8, 19
—— (Dr. T.) - - 3
Ashley (W. J.) - - 16
Astor (J. J.) - - 21
*Atelier du Lys (Author of)* - - - - - 26
Ayre (Rev. J.) - - 25

Bacon - - - 7, 14
*Page*
Baden-Powell (B. H.) 3
Bagehot (W.) - 7, 16, 29
Bagwell (R.) - - 3
Bain (Alexander) - 14
Baker (Sir S. W.) - 8, 10
Baldwin (C. S.) - 14
Balfour (A. J.) - 11, 31
Ball (J. T.) - - 3
Baring-Gould (Rev. S.) - - - 27, 29
Barnett (Rev. S. A. & Mrs.) - - - 16
Baynes (T. S.) - - 29
Beaconsfield (Earl of) 21
Beaufort (Duke of) - 10, 11
Becker (Prof.) - - 18
Beesly (A. H.) - - 19
Bell (Mrs. Hugh) - 19
—— (Mrs. Arthur) - 7
Bent (J. Theodore) - 8
Besant (Sir Walter) - 3
Bickerdyke (J.) - 11
Bicknell (A. C.) - 8
Bird (R.) - - - 31
Black (Clementina) . 21
Blackwell (Elizabeth) 7
Bland (Mrs. Hubert) 20
Boase (Rev. C. W.) - 4
Boedder (Rev. B.) - 16
*Page*
Bosanquet (B.) - 14
Boyd (Rev. A. K. H.) 7, 29, 31
Brassey (Lady) - 8, 9
—— (Lord) 3, 8, 11, 16
Bray (C. and Mrs.) - 14
Bright (Rev. J. F.) - 3
Broadfoot (Major W.) 10
Brögger (W. C.) - 8
Brookings (W.) - 29
Browning (H. Ellen) 9
Buck (H. A.) - - 11
Buckle (H. T.) - - 3
Bull (T.) - - - 28
Burke (U. R.) - - 3
Burrows (Montagu) 4
Butler (E. A.) - - 24
—— (Samuel) - - 29

Cameron of Lochiel 12
Cannan (E.) - - 17
—— (F. Laura) . 13
Chesney (Sir G.) - 3
Chisholm (G. G.) - 25
Cholmondeley-Pennell (H.) - - - 11
Cicero - - - 18
Clarke (Rev. R. F.) - 16
Clodd (Edward) - 17
Clutterbuck (W. J.) - 9
*Page*
Cochrane (A.) - - 19
Coleridge (S. T.) - 20
Comyn (L. N.) - 26
Conington (John) -
Conybeare (Rev. W. J.) & Howson (Dean) 27
Corbett (Julian) - 3
Corder (Annie) - 19
Coventry (A.) - - 11
Cox (Harding) - 10
Crake (Rev. A. D.) - 26
Creighton (Bishop) - 3, 4
Crozier (J. B.) - - 14
Crump (A.) - - 21
Cuningham (G. C.) - 3
Curzon (Hon. G. N.) 3
Cutts (Rev. E. L.) - 4

Dallinger (F. W.) - 4
Davidson (W. L.) - 14, 16
Davies (J. F.) - - 18
Deland (Mrs.) - - 21, 26
Dent (C. T.) - - 11
Deploige - - - 17
De Salis (Mrs.) - 28, 29
De Tocqueville (A.) - 3
Devas (C. S.) - - 16
Dickinson (G. L.) - 4
Diderot - - - 21

# INDEX OF AUTHORS AND EDITORS—*continued.*

Page
Dougall (L.) - - 21
Dowell (S.) - - 16
Doyle (A. Conan) - 21
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Howell (G.) - - 16

Page
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---- (John Stuart) - 15, 16

Page
*Miss Molly* (*Author of*) 26
Molesworth (Mrs.) - 26
Montague (F. C.) - 6
Montagu (Hon. John Scott) - - 12
Moore (T.) - - 25
(Rev. Edward) - 14
Morgan (C. Lloyd) - 17
Morris (W.) - 20, 22, 31
(Mowbray) - 11
Mulhall (M. G.) - 17
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Osbourne (L) - - 23

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Parr (Louisa) - - 26
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Pembroke (Earl of) - 11
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Soderini (Count E.) - 17

Page
Sophocles - - 18
Soulsby (Lucy H.) 26, 31
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